



Founded 1886

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM



WASHINGTON'S FAREWELL

PAINTED BY E. PERCY MORAN

**Feature Article by Doctor Muzzey of Columbia University on
Religious Liberty and the
Constitution**

15 CENTS A COPY

WASHINGTON, D.C.

DECLARATION of PRINCIPLES

Religious Liberty Association

1. We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ.
2. We believe that the ten commandments are the law of God, and that they comprehend man's whole duty to God and man.
3. We believe that the religion of Jesus Christ is founded in the law of love of God, and needs no human power to support or enforce it. Love cannot be forced.
4. We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights and to rule in civil things, and that in this realm it is entitled to the respectful obedience of all.
5. We believe it is the right, and should be the privilege, of every individual to worship or not to worship, according to the dictates of his own conscience, provided that in the exercise of this right he respects the equal rights of others.
6. We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state.
7. We believe, therefore, that it is not within the province of civil government to legislate on religious questions.
8. We believe it to be our duty to use every lawful and honorable means to prevent religious legislation, and oppose all movements tending to unite church and state, that all may enjoy the inestimable blessings of civil and religious liberty.
9. We believe in the inalienable and constitutional right of free speech, free press, peaceable assembly, and petition.
10. We also believe in temperance, and regard the liquor traffic as a curse to society.

For further information regarding the principles of this association, address the Religious Liberty Association, Takoma Park, Washington, D.C. (secretary, C. S. Longacre; associate, H. H. Votaw), or any of the affiliated organizations below:

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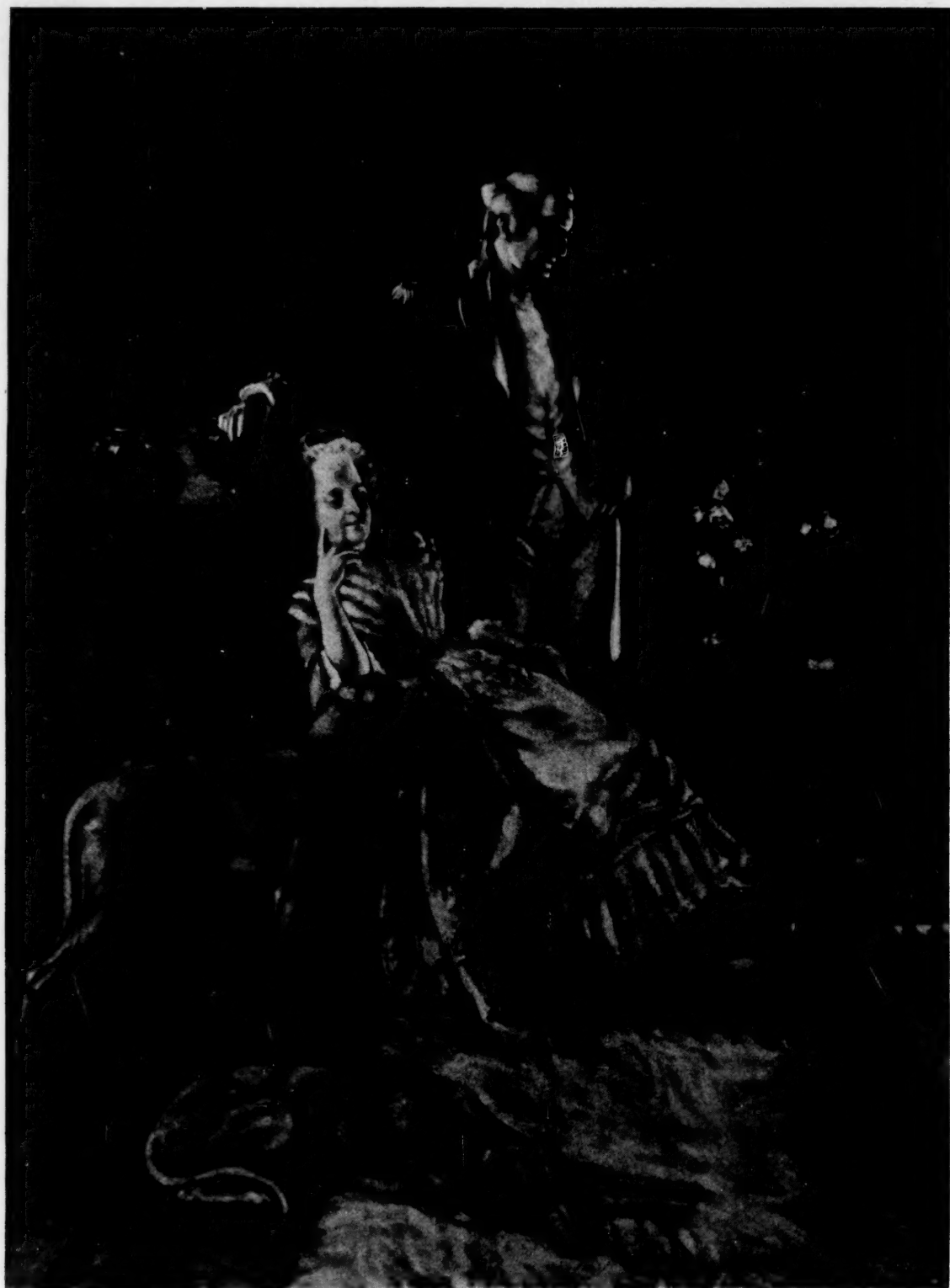
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LIBERTY IS THE SUCCESSOR OF THE AMERICAN SENTINEL, WHOSE FIRST NUMBER WAS PUBLISHED IN 1886, AT OAKLAND, CALIFORNIA. ITS NAME WAS CHANGED IN 1906 TO LIBERTY, UNDER WHICH NAME IT HAS BEEN PUBLISHED QUARTERLY BY THE REVIEW AND HERALD PUBLISHING ASSOCIATION, TAKOMA PARK, WASHINGTON, D.C. ENTERED AS SECOND-CLASS MATTER MAY 1, 1906, AT THE POST OFFICE AT WASHINGTON, D.C. UNDER THE ACT OF CONGRESS OF MARCH 3, 1879. SUBSCRIPTION RATES.—ONE YEAR, 50 CENTS; CLUB OF THREE SUBSCRIPTIONS TO SEPARATE ADDRESSES, \$1; FIVE OR MORE COPIES MAILED BY PUBLISHERS TO FIVE ADDRESSES, OR TO ONE ADDRESS, POSTPAID, EACH, 9 CENTS. NO SUBSCRIPTIONS FOR LESS THAN ONE YEAR RECEIVED. REMIT BY POST-OFFICE MONEY ORDER (PAYABLE AT WASHINGTON, D.C., POST OFFICE), EXPRESS ORDER, OR DRAFT ON NEW YORK. CASH SHOULD BE SENT IN REGISTERED LETTER. WHEN A CHANGE OF ADDRESS IS DESIRED, BOTH OLD AND NEW ADDRESSES MUST BE GIVEN.



General Washington and His Wife by Their Fireside at Mount Vernon

A DETAIL OF A PAINTING BY JOHN WARD DUNSMORE

Religious Liberty and the Constitution

by **DAVID SAVILLE MUZZEY, Ph.D.**

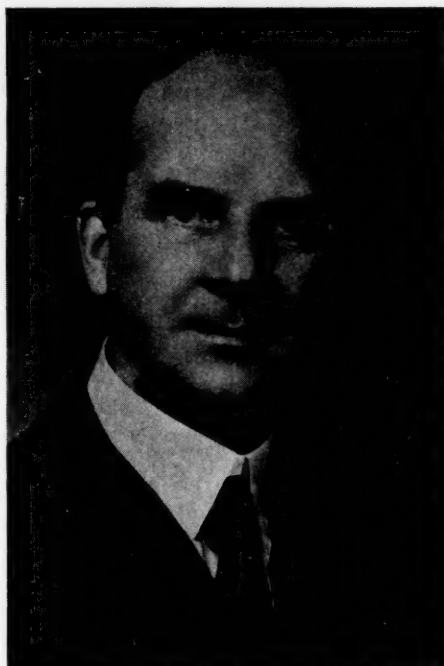
Professor of History, Columbia University

LIT IS A COMMONPLACE that men come to regard with complacent indifference blessings long enjoyed. What we ourselves earn, we are keenly aware of; what we inherit, we have to be taught to appreciate. Among the secure blessings which we enjoy as we enjoy the air we breathe is religious liberty. James Bryce, in his penetrating analysis of the institutions of the American Commonwealth (Vol. II, p. 554), wrote: "Of all the differences between the Old World and the New, this [religious freedom] is perhaps the most salient." And another competent student of our social scene, Sanford H. Cobb, declares that the complete separation of church and state is the "most striking contribution of America to the science of government." Whatever may be our misgivings in regard to some aspects of the fulfillment of the "American dream" of liberty in the field of economic and political life, no one can challenge the truth of William Cullen Bryant's inspiring lines as applied to the profession and the promulgation of religious convictions:

"Here the free spirit of mankind, at length,
Throws its last fetters off."

So long have we been rid of the religious fetters which still gall the body politic in many lands that we can sing of "the land of the free" in this respect, without mental reservation. At the height of the struggle between church and state in France, at the turn of the last century, I talked with a member of the French Chamber of Deputies on this subject. "Ah," said he, "you are fortunate, you Americans,

FIRST QUARTER



Dr. David S. Muzzey

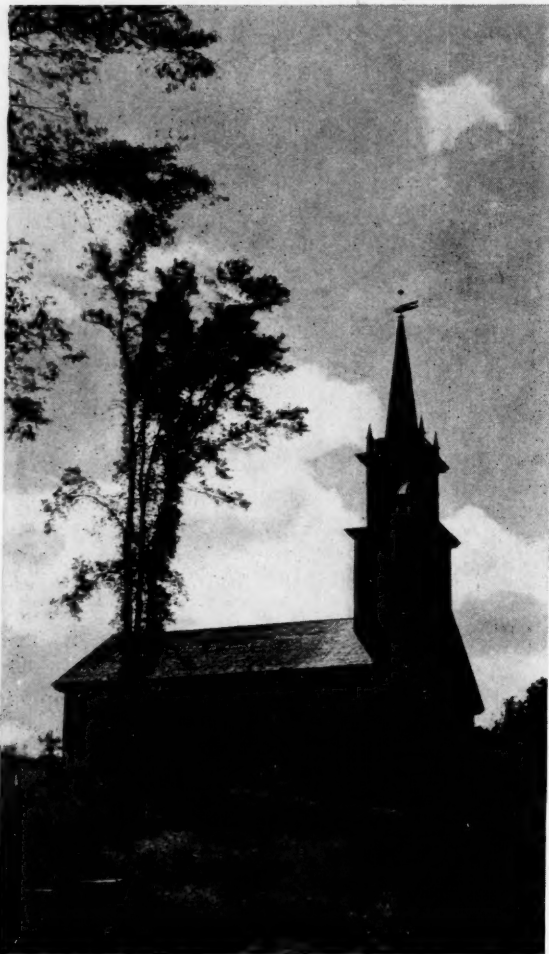
that you have not this religious problem, with its roots centuries deep, to vex your politics." M. Jaures was right. If, at rare intervals in our life under the Constitution, the question of religion has dared to intrude itself into politics, such manifestations of religious bigotry have been immediately frowned upon by the better elements of our population as an infringement on the spirit of the Constitution and an affront to American liberty. No wars of religion have devastated our land. No bloody crusades to extirpate heresy have been preached from our pulpits. No religious sects have been driven into cellars and attics to worship according to the dictates of their conscience, in fear and trembling lest their songs and prayers be interrupted by the tramp of the king's dragoons. No chapels are closed by order of the political authorities. No priests or ministers are seized and sent to concentration camps. No citizen is compelled by law to contribute to the support of any religious establishment. No school is obliged to recite a catechism which attributes a quasi-divine authority to a political dictator.

An Epochal Revolution

The guaranties of the religious liberty which we enjoy in such complacent acceptance are contained in two very brief sentences of the Constitution of the United States. Article VI says: "No religious test shall ever be required as qualification to any office or public trust under the United States." And the first article of the Bill of Rights (Amendment I) declares that "Congress shall make no law respecting

an establishment of religion, or prohibiting the free exercise thereof." These priceless guaranties marked an epochal revolution in the relations of church and state. They are not perfunctory announcements of self-evident truths. They are the result of a long, bitter struggle against what had seemed self-evident truths for ages past.

From the time of Constantine the Great to the days of Thomas Jefferson a necessary and vital connection between church and state was accepted as normal. With surprisingly few exceptions, statesmen, theologians, lawyers, and philosophers agreed that social security depended upon the encouragement and regu-



H. A. ROBERTS

Let Us Be Thankful for the Freedom of Worship That Still Is Ours. May We Cherish the Precious Treasure of Religious Liberty and Guard It Well

lation of belief and worship by the constituted powers. This was doubtless an inheritance of millenniums of savage and semi-civilized life in which every detail of man's existence was tied up inextricably with ceremony for placating the gods; when religion was a vast system of taboos on the observance of which was conditioned the welfare of the individual and the tribe. Not alone narrow-minded martinets like James the First proclaimed the doctrine of "no bishop, no king," but men of enlightenment and wisdom concurred in the proposition that the state was responsible for and profited by the submission of the individual's conscience (or, at least, of his outward religious action) to the prescription of the ruler. Thus the "blessed" Spinoza, who was ready to endure excommunication from the synagogue for the sake of his inner convictions, declared that the regulation of worship belonged rightfully to the state. And Disraeli, in 1868, deplored the disestablishment of the Irish church as "destroying the sacred unity between church and state which has hitherto been the chief means of our civilization and is the only security for our religious liberty." As if, on the contrary, half the calamities which had afflicted Christendom had not arisen precisely from such a "sacred unity."

Even George Washington, for all his breadth of mind and clarity of vision, said that he could not understand why any people in Virginia should object to being taxed for the support of the Anglican establishment, to which a great majority of the inhabitants belonged—and of which he was a vestryman, though an indifferent worshiper. Through countless generations the doctrines and ceremonies of an established religion had become so intimately connected with all the relationships of life, especially in the solemn crises of birth, marriage, and death, that coolness to or rejection of its offices was considered as equivalent to religious blasphemy or political anarchism.

Toleration and Religious Liberty

The progressive enlightenment following the Renaissance, the Reformation, the scientific progress of the seventeenth century, and the philosophical emancipation of the eighteenth century, got no farther than the idea of religious toleration—which is only the counterfeit of religious liberty. For, as Thomas Paine remarked, religious persecution and religious toleration proceed from the same idea of the control of man's conscience by a power outside himself. Persecution represses his freedom of worship; tolera-



The Great Jefferson Ponders the Future. The History of Tyranny and Oppression Must Never Be Repeated in the New Nation Just Emerging. Let Us Who Live Today Never Remove the Checks and Balances Which the Wise Founders of This Nation Placed Within Our System of Government

tion concedes it. But the right to concede implies the right to deny. There is liberty in neither. Lord Stanhope, one of the rare prophets of religious liberty, stated the matter in unanswerable terms in a debate of 1827 on the repeal of the Test and the Corporation Acts of the reign of Charles II: "Once toleration was craved by dissenters as a boon; now it is demanded as a right; but the time will come when it will be spurned as an insult." The very word "toleration," which means to tolerate or suffer or endure something, implies that there is a better thing which, for reasons of expediency or humanity, it would be wiser not to insist upon under the circumstances. But there is no better thing than religious liberty.

When the American colonies were founded, the idea of even a toleration of dissenting religious opinions and worship had been reached in only a few places in the Old World, notably, in Holland. The bold spirits who came to these shores in the seventeenth century were to a considerable extent fugitives from religious oppression in England or on the continent of Europe. But even so, with the rarest of exception, such as a Roger Williams, they were in agreement with their oppressors at home that the

welfare of their new settlements depended on a union more or less intimate between church and state. The Puritans of Massachusetts broke away from the Church of England, but substituted their more rigid ecclesiastical tyranny in its place. The cavaliers of Virginia transplanted a shoot of the Church of England into their colony and guarded its growth by laws as exigent as those of their Puritan rivals in New England. "Toleration," said Cotton Mather of Boston, "makes the world anti-Christian." "The Simple Cobbler of Agawam" (Nathaniel Ward) declared that "polipietiy (i.e., the coexistence of varieties of worship) is the worst impiety in the world." And the doggerel verses of Thomas Dudley are familiar to all students of New England Puritanism:

"Let men of God in courts and churches watch
O'er such as do a toleration hatch;
Lest that ill egg bring forth a cockatrice,
To poison all with heresy and vice."

President Oakes of Harvard in 1673 looked upon "unbounded toleration as the first-born of all abominations." And so the quotations could be multiplied a hundredfold. In all of New England, and indeed in all of the colonies, there was but one spot where

pure religious liberty prevailed. Though the colonies differed much in the severity of their laws and in the consistency of the application of those laws, Rhode Island was the only colony (thanks to the courageous enlightenment of Roger Williams) in which the now "self-evident" truth that a man's conscience concerns himself and his God, and not at all the temporal powers to which as a citizen he is subject, was fully recognized.

Other colonies have enjoyed an undeserved reputation for religious freedom, notably Maryland and Pennsylvania. But not in either of these cases, and not in the laxity or indifference of other colonies in the enforcement of the laws of the religious establishment, can we find an advance beyond the conception of toleration. The famous Maryland Act of 1649 reads: "No person believing in Jesus Christ shall be molested in his religion . . . in this province." It excepted, therefore, Jews, atheists, Mohammedans, deists, and "infidels" of all types. Furthermore, clergymen were not allowed to sit in the legislature of the colony. The Pennsylvania "Frame of Government" accepted as residents in the Quaker colony "all persons who confess and acknowledge the one Almighty and Eternal God to be the creator, upholder, and ruler of the world," but it confined voting and office holding to those who "profess Jesus Christ to be the Saviour of the world." It was not, therefore, Maryland or Pennsylvania that pointed the way to the religious liberty incorporated in the Constitution. That honor belongs to Rhode Island alone.

At the time the Constitution was framed, there prevailed a great variety in the religious provisions of the new States. Next to Rhode Island, Virginia had gone farthest along the path of complete religious liberty. A section (drawn by Patrick Henry) in its Bill of Rights of 1776 had declared that "all men should enjoy the fullest toleration in the exercise of religion;" yet the Church of England remained established, and its vestries had civil functions. However, Thomas Jefferson's famous "Act for the Establishment of Religious Freedom" (1777) was finally passed in 1785, and therewith the complete separation of church and state was accomplished.

In all the other States some degree or other of "conformity" was required for the full exercise of citizenship. Five States (New Hampshire, Massachusetts, Connecticut, Maryland, South Carolina) still adhered to an established church. Six discriminated against Roman Catholics; four insisted on belief in the inspiration of Scripture; two required a belief in future reward and punishments; three (Maryland, New York, and South Carolina) excluded clergymen from their legislatures; Delaware required belief in the Trinity. But, as Voltaire sagely remarked in his "Letters on the English" early

in the eighteenth century, the very variety of religious sects made for toleration. As communications between the colonies widened, the attention drawn to the conflicting and competing bigotries tended to weaken all of them.

A Great Experiment in Civil and Religious Freedom

The Constitution did not attempt to interfere with the religious prescriptions of the States. Its two brief guaranties of religious liberty which we have noted concerned only the national government. *Congress* was forbidden to make any law interfering with the exercise of religion or the establishing of a church; religious tests were ruled out for qualification for offices or trusts *under the United States*. The national government has never attempted to dictate to the States in their requirements for political rights, such as office holding. It did not interfere even with their determination of the suffrage until it passed the Fifteenth and Nineteenth Amendments—neither of which had to do with religion. Nevertheless, the complete separation of church and state in the national Constitution was a continuous and potent influence upon the States to liberalize their own constitutions. Just as the creation of a national currency finally drove out of circulation the competing and confused State issues, so the guaranty of complete religious liberty in the national law made restrictive provisions in the State laws look more and more anomalous and ridiculous. It took many years, to be sure, to purge the remnants of colonial intolerance (or colonial tolerance) out of the constitutions of the States. But today, except for the neglected persistence of a few fossilized provisions in the laws of a few States, that process of purging is complete.

In every State of the Union the civil power has been shorn of its authority over the individual in matters of faith and worship. In no State is it lawful to appropriate money for the support or propagation of any form of religion. In none can the citizen be deprived of his right to vote, to hold office, to enjoy his inheritance, to secure equal justice in the courts on account of his religious opinions. In none is the citizen obliged to attend any church or to contribute to the support of any church. Nowhere is the expression of his religion denied him, unless it takes some form harmful to the morals of the community or detrimental to the preservation of law and order. The attainment of this happy state of religious freedom is, of course, due to a combination of many influences—increasing human sympathy, the advance of science, the study of comparative religion, the secularizing influence of trade and communications, and other factors. But among these many factors perhaps none has been more powerful than the steady guidance of

the ideal so wisely set up by the Fathers of the Constitution when they gave this new country and the world at large the first example of a government founded on the principle of the separation of civil

power from religious preference and, by leaving man's conscience in its proper sphere of obedience to God alone, realized for the first time in history the ideal of a free church in a free state.

“There, but for the Grace of God—”

by **WAYNE D. McMURRAY***



WHEN THE PERSECUTION of minority racial and religious groups is mentioned, it generally elicits expressions of disapproval for the persecutor and sympathy for his victims. But these expressions smack too much of the academic to be of real value to the cause of liberty throughout the world. Something more than these perfunctory expressions must be awakened if the cloud of bigotry that hovers over Europe is to be prevented from drifting across the American sky.

Self-interest is not generally regarded as a noble motive. Yet an intelligent selfishness, from a practical viewpoint, has great value in improving the relationship between men. A man who respects his neighbors' rights simply because to infringe them might invite retaliation, is hardly inspired by idealism. But at the same time he does become a better neighbor. So, while awaiting the day when idealism regains its hold on the hearts of men, we should not sneer at pragmatic considerations which may lessen the hatred and prejudice with which men of different beliefs now view each other.

Dangers Not Remote

There is an unfortunate tendency in this country to regard the problem of Europe as too remote to cause us any serious concern. We are inclined to adopt the “It can't happen here” philosophy. But, most decidedly, it can happen here. Human nature is much the same the world over. Less than a quarter of a century ago it would have been regarded as impossible that self-respecting, kindly citizens of Europe could rise against their neighbors and subject

them to persecution simply because of their religious belief. It is easy to stamp out a smoldering cigarette; it is almost impossible to beat out the forest conflagration which ensues. The germ of intolerance is present in all of us. It needs but to be fanned by some mob psychologist in order to assume the proportions of a conflagration. And that conflagration cannot be brought under control until it has burned itself out. And when it has burned itself out, all that is left is the charred and blackened remains of what we boasted of as our civilization. Then, as nature must regrow the forest, hardy souls must seek again to rebuild the confidence and tolerance with which men must regard each other if they are to live happily in modern society.

There are always men ready and willing to be demagogues. But only when people seek short cuts to the settlement of national problems, and forsake the ballot and the court and the democratic method of doing things—only then does the dictator have his opportunity. That is the tragedy of the world today: so many desperate peoples ready to follow any false god; ready to heed the promise of the demagogue; ready to throw away generations of progress, of civilization, to follow where the will-o'-the-wisp may beckon, and where it inevitably leads—to the quicksand.

When we read of persecution in other parts of the world, it is easy to say that it does not concern us, and it is especially easy smugly to thank our lucky stars that we are not the victims of the reigning oppression. But this view not only lacks idealism and the real spirit of tolerance that should actuate every individual; it is also exceedingly shortsighted from a practical viewpoint. This time it may be the Jews who are singled out for persecution. But next time

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it will be some other group. For in any country where any racial or religious group is persecuted, no racial or religious group is safe. And in a world where racial or religious persecution is tolerated, all are potential victims of persecution. The fires of prejudice do not discriminate; they burn Jew, Catholic, Protestant, and agnostic with the same fury. They depend only upon the direction in which the wind of poisoned public thinking may blow them.

A Crusade for Tolerance Needed

Members of every faith should join the crusade for racial and religious tolerance. For the basis of the appeal is charity, and charity of both thought and action is the foundation of every faith and every philosophy of life that is worthy of the name.

In America today we find hints of this incipient bigotry which, fanned by demagogues, may bring about the persecution that now curses other lands. We should not look with condescension on those of other countries who have succumbed to prejudice and find delight in persecuting those who differ from them in creed or race. In the words of Canio in *I Pagliacci*, "We are but men like you." We have

the same latent dislikes, the same capacity for hatred and senseless action. The same force motivates those who abase their fellows by making them scrub sidewalks and those in this country who hurl rotten eggs at a national figure who essays a public speech that is unpopular with a small, organized group in his audience.

Once we set about circumscribing the rights and freedom of others, we have paved the way for similar abridgment of our own liberty. And once a vicious group can break up a public meeting, it is but a step to the mistreatment of those attending the gathering.

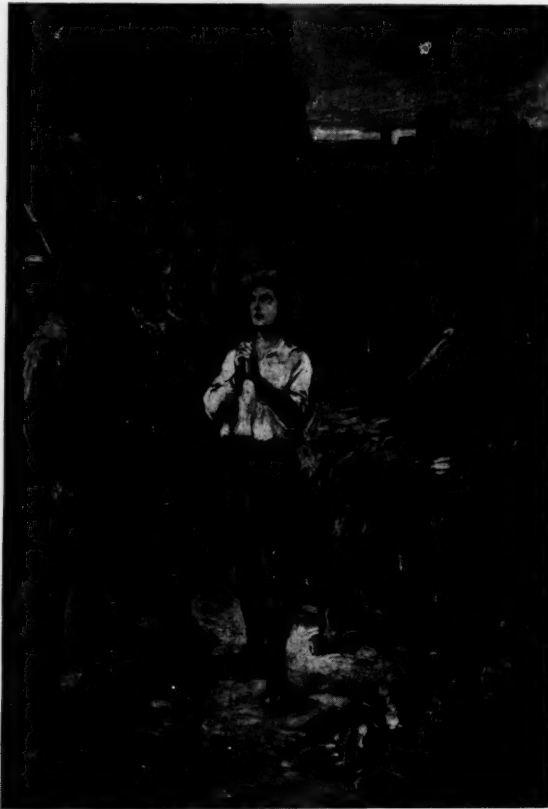
Make no mistake: we either tolerate freedom for others or we forge a link in the chain that will someday bind us. The martyr cause of today may be triumphant tomorrow. And then, Heaven help those who stoned the martyrs! We may disagree with the martyr, but we must prevent his martyrdom unless we are willing to assume the risk that one day his cause will be popular and the thoughts that we now hold will bring upon us the vengeance of the new mob. There is little of idealism in tolerance espoused for such a motive. But idealists are few, and many can appreciate practical considerations.

Experience of John Bradford

Years ago in the time of Henry VIII of England there was a famous preacher named John Bradford. Wherever he preached, great congregations thronged. He was the church leader of his time. One day he saw a band of prisoners led to the stake, to be burned to death for not conforming with the religious group that was then in control. With sorrow he watched them walk to their doom; and he uttered the famous words that time soon proved to be a prophetic prayer. "There," he meditated, "but for the grace of God, goes John Bradford!"

Time brought changes. Another religious group gained the ascendancy, and the day came when John Bradford was led to the stake to pay with his life for holding beliefs contrary to those of the mob. And as the flames that bigotry had lighted leaped about him, he saw again the spectacle of those unhappy wretches of years before, in whose place John Bradford now stood.

Today those outside the realm where persecution rages are the John Bradfords of modern times. As they watch the martyrs of today being led away to persecution and perhaps death, they well may meditate: "There, but for the grace of God, go the Catholics, or the Protestants, or the freethinkers. There, but for the turn of fate, go all who think their own thoughts, who follow the dictates of their own consciences, who dare to disagree with the bigots who, for a brief moment, have usurped power!"



PAINTED BY CHARLES MENTE

Are We to Retrace Our Steps to the Days When Men Were Burned at the Stake for Their Faith? Let America Take Heed, for the Spirit of Intolerance Is Again Rearing Its Head in the World

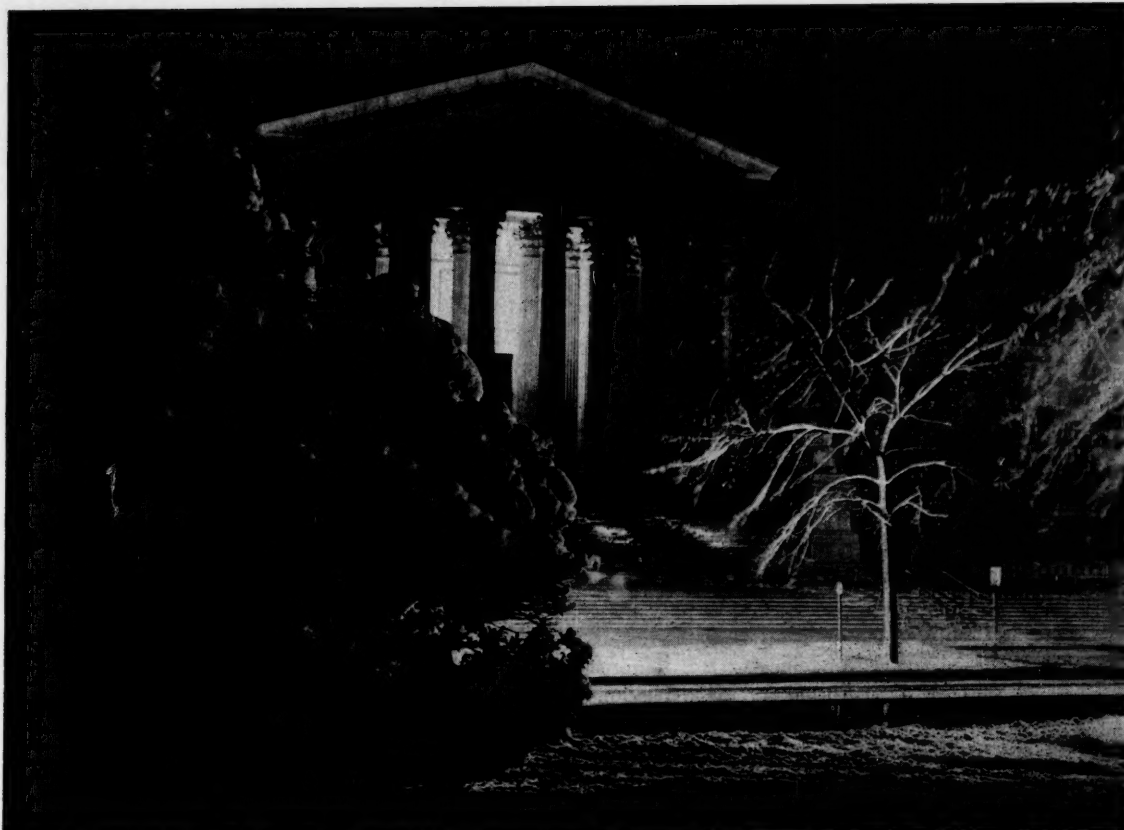


PHOTO BY LIONEL GREEN

The Supreme Court Building in the Nation's Capital Under a Mantle of Snow

The Supreme Court

A Refuge for the Oppressed

by a Washington Correspondent

JAMES BRYCE WROTE in "The American Commonwealth:"

"A bold President who knew himself to be supported by a majority in the country, might be tempted to override the law, and deprive the minority of the protection which the law affords it. He might be a tyrant, *not against the masses, but with the masses.*"

Temporary mass hysteria and outbursts of emotionalism on the part of a majority of the citizens in great crises such as wars, epidemics, and financial panics, are not at all unusual. They have occurred

FIRST QUARTER

in the past in the United States, and they will no doubt occur again. During such emotional storms the most common characteristic of the majority is to perpetrate the most cruel and violent injustices against those minorities toward whom demagogues and bigots may inflame and direct the public passions.

In cautioning against exactly this kind of situation, James Bryce wrote in "The American Commonwealth:"

"The Supreme Court is the living voice of the Constitution—that is, of the will of the people expressed in the fundamental laws they have enacted. It is

therefore, as some one has said, the conscience of the people, who have resolved to restrain themselves from hasty or unjust action by placing their representatives under the restriction of a permanent law. It is the guaranty of the minority, who, when threatened by the impatient vehemence of a majority, can appeal to this permanent law, finding the interpreter and enforcer thereof in a court set high above the assaults of faction.

"To discharge these momentous functions, the Court must be stable even as the Constitution is stable. . . . It must resist transitory impulses, and resist them the more firmly the more vehement they are. Entrenched behind impregnable ramparts, it must be able to defy at once the open attacks of the other departments of the Government, and the more dangerous, because impalpable, seductions of popular sentiment."

Recent Attempted Oppression of Minorities

We need go no farther back in our history than the World War and the Civil War to find exactly these very impatient and vehement outbursts of the majority against the minority, together with attempted cruel injustices born of the blind, inflamed passions of the majority.

The present controversy, precipitated by the President's demand for control of the Federal judiciary, involves the most vital issues, in so far as the rights and liberties of the individual citizens are concerned, that have been raised since the Civil War, if not in the entire history of the nation. This is conceded by everybody on both sides of the argument. It is a problem the solution of which involves the welfare of every man, woman, and child in the United States within the present generation, and which will, to a vastly greater degree, affect the rights, liberties, welfare, and happiness of coming generations. Therefore it should be kept foremost in mind that the provisions of the Bill of Rights in the Constitution were designed to protect the minorities from the fanatical, emotional outbursts of temporary majorities, in so far as issues that intimately affect the life, the conscience, and the well-being of the individual citizen are concerned.

Will Bill of Rights Be Weakened?

The fundamental question at the foundation of this controversy is whether the guaranties of the Bill of Rights would continue to be "guaranties," or whether they would be reduced to mere admonitions and "counsels of perfection," if the Supreme Court, which was designed to be, and which through the century and a half of its existence has been, their guardian and vindicator, should be made subservient to the President or the Congress.

Supreme Court Protected Minorities After Civil War

One shudders to think what would have happened to freedom of conscience, to say nothing of the right to "life, liberty, and the pursuit of happiness," if the Supreme Court had been subservient to the executive or the legislative branch of the Government, or susceptible to the influence of popular clamor, during the fanatical days following the Civil War, when various States sought to impose "purgation" oaths and test oaths upon their citizens—oaths which would have proscribed noncombatants, such as physicians, nurses, chaplains, or any others who had given medical assistance, religious consolation, or even ordinary humane treatment, to soldiers of the Confederacy. Those test oaths would have disqualified such persons for holding any office, or for the pursuit of their lawful vocations.

Indeed an oath incorporated into the Missouri State constitution by a State constitutional convention would have denied the right to hold office or to practice their vocations to bishops, priests, deacons, ministers, elders, teachers, lawyers, or any one else who had at any time "aided, abetted, communicated with, or sympathized with, the enemy."

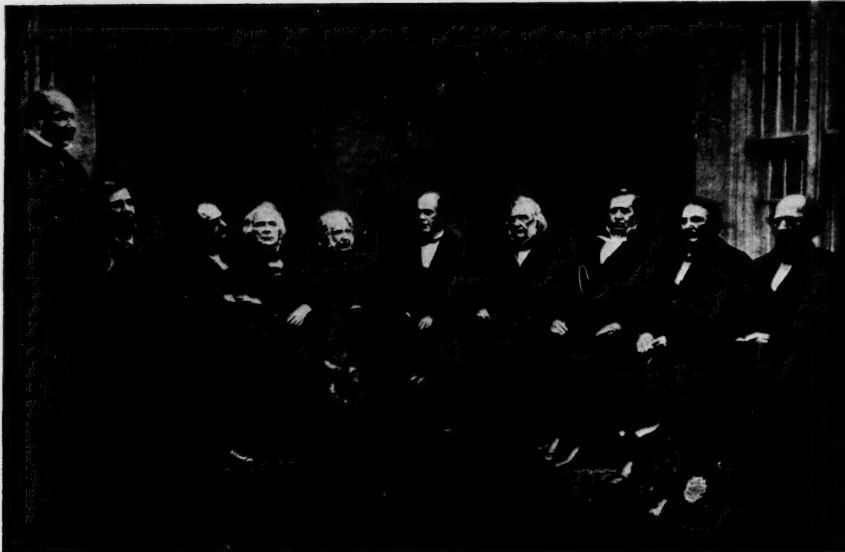
The Cummings Versus Missouri Case

In the case of Cummings vs. Missouri (71 U.S. 277), a Catholic priest was convicted in the circuit court of Pike County of teaching and preaching without having taken the oath. Amazing as it is, the Missouri State Supreme Court, susceptible to the hysteria of the time—and being an elective court—confirmed the conviction, and it was carried to the United States Supreme Court. That tribunal promptly reversed the judgment on the ground that "no State shall pass any bill of attainder or ex post facto law," and thereby make unlawful or punishable what had not been unlawful when done.

Had the Supreme Court not stood like a rock of Gibraltar, "high above the assaults of faction," and defiant of "seductions of popular sentiment," as Bryce in "The American Commonwealth," has said, there would have been made possible, during that time of intense hatreds and inflamed emotions, cruel injustices that would forever have been a blot upon the history of this nation.

Independent Judiciary Vital to Religious Liberty

To get a clear conception of how utterly vital to religious liberty, freedom of conscience, and the very right of parents to educate their children as they choose, is a completely independent judiciary, we have to go back in our history less than twenty years.



FROM PHOTO IN LAW LIBRARY, U.S. CAPITOL

The Supreme Court of the United States in 1864

During the years of 1917-19, so inflamed was the sentiment of the majority in this nation by the war, that *twenty-one States adopted laws making it a crime to teach any modern language other than English in any private, denominational, parochial, or public school to any child who had not attained and successfully passed the eighth grade in the public schools.* Those States were: California, Colorado, Delaware, Indiana, Kansas, Louisiana, Minnesota, Montana, North Dakota, Oklahoma, South Carolina, South Dakota, Ohio, Iowa, Washington, Idaho, Illinois, Nevada, Oregon, West Virginia. In 1902 Massachusetts had such a law. (*Meyer vs. Nebraska*, Briefs and Arguments, State of Neb. 262 U.S. 24-29, Inc.)

The Meyer Versus Nebraska Anti-Foreign Language Case

Just how important an independent Federal judiciary is in guarding the liberties of humble citizens against assaults by even the highest State courts, susceptible as they are to elective influence, is to be found in a case known as *Meyer vs. Nebraska* (262 U.S. 390.) This case was decided by the Nebraska State Supreme Court's upholding the antiforeign language statute of that State against a teacher in the Zion Parochial School in Nebraska who taught German to a boy of ten who had not completed the eighth grade in the public schools.

An amazing fact is that the Nebraska State Supreme Court held that children must not learn to think at an early age in the mother tongue of their parents because it might make them sympathetic in later years to the native countries of their respective

parents, and to the ideas of their parents, and, in that way, impair their thinking as good Americans.

In perhaps no instance has the high purpose and function of an independent judiciary been more clearly shown forth as the protecting agency of the liberties of the lowly in this country, the rights and liberties of the minorities, when assailed by inflamed and vehement majorities, than in this case of *Meyer vs. Nebraska*. In its reversal of the Nebraska Supreme Court's decision,

the United States Supreme Court held that liberty as guaranteed under the Fourteenth Amendment "denotes not merely freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by freemen."

Liberty Cannot Be Infringed by Subterfuges, Supreme Court Declares

In its opinion the Federal Supreme Court further held that the established doctrine is that *liberty may not be interfered with under the guise of protecting the public interest by legislative action which is arbitrary or without reasonable relation to some purpose within the competency of the State to effect. The Court further held that determination by the legislature of what constitutes proper exercise of police power is not final or conclusive, but is subject to supervision by the courts.*

Further, the Court declared, "the individual has certain fundamental rights which must be respected. . . . Protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue."

Pierce Versus Society of Sisters—Oregon Case

Another celebrated case in which the Supreme Court preserved the religious freedom of the indi-

vidual, the right of parents to dictate the religious education of their children, the right of denominational schools and colleges to be secure in their property values involved in educational institutions, and the right of children to receive religious or secular education, is the *Pierce vs. Society of Sisters*, and *Pierce vs. Hill Military Academy Case*. (268 U.S. 510.)

This was a case which threatened the existence of every primary denominational school and every private school in the State of Oregon, and which, of course, held within its decision the fate of every like institution in the United States.

Supreme Court Stopped Attempted Standardization of Children

An Oregon compulsory-education act required children, from the ages of eight to sixteen years, to be sent to the public schools. (Passed in 1922.) This act affected the right of parents to choose schools for their children. It affected their right to decide what mental and religious training their children should receive.

The act further affected the right of religious denominations, religious societies, and of any private groups or individuals to establish schools, and of teachers in those schools to engage in a useful business or profession.

Among the amazing arguments made before the United States Supreme Court in favor of the Oregon law was one that held that the act was to guarantee the absolute separation of church and state, and that the public schools must be free from influences in favor of any religious organization, sect, or creed. So grave and dangerous were the implications of this case that by special leave of the Supreme Court, briefs of *amici curiae* (friends of the court) were filed by Louis Marshall for the American Jewish Committee; William A. Williams for the North Pacific Union Conference of Seventh-day Adventists; Charles F. Tuttle, Charles E. Hotchkiss, Alexander J. Field, and Woodson P. Houghton for the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States.

One of the most fundamental points in the decision of the Supreme Court in the Oregon case was that "the fundamental theory of liberty excludes the power of any State to standardize children by forcing them to accept instruction from public teachers only." Within that declaration is embodied the whole concept of liberty as opposed to communism, fascism, despotism. It means that the child—the citizen—does not exist for the state, but that the state exists for the citizen. It means that government has no God-given or inherent rights, but that it is a human

institution, created and established by men for the sole purpose of securing the God-given rights of the individual, and for assuring the equality of right, of opportunity, and of burden to each individual.

It means that government is a servant, or agent, of the always sovereign people, created by them, and exercising only such limited powers as the people may delegate to the governmental agency, with the reserved right in the people to enlarge, restrict, or revoke those powers at their pleasure, to the end that the liberties of economic, religious, racial, and political minorities may always be secured against the assaults of temporary majorities.

Within this dictum lies the protection of every church, sect, and denomination, as well as the protection of every other society, group, or individual, in the right to own and to operate religious, sectarian, or private educational and training institutions, and to be secure in the property rights involved and built up by such institutions.

The foregoing cases are but a few of the many in which the Supreme Court has upheld the rights of conscience, religious liberty, and property. The annals of the Court are filled with instances in which the rights of the humblest citizens, of religious teachers, and even of lowly aliens have been protected against the assaults of an impatient and vehement majority.

Supreme Court a Rock of Refuge for Oppressed

Such onslaughts against individual rights and liberties come sometimes through fear; sometimes through an honest but mistaken sense of national welfare; sometimes through the deliberately fanned hatreds, prejudices, and bigotry of mass hysteria. But regardless of inciting causes or motivating emotions, such assaults, like the present one, endanger the very liberties they are intended to protect. It has always been the Federal judiciary, unafraid and unmoved in the face of inflamed or excited popular sentiment, that has stood as the impregnable rock of refuge for those whom the temporary majority would suppress.

Bulwark of Freedom Threatened

But let the spear of executive or legislative domination once reach the heart of judicial independence, let the dagger of popular excitement, fear, prejudice, or hatred once pierce the vitals of judicial independence—and at that moment the guardian of religious liberty, or the Bill of Rights, dies in all but name, and the way is open for the complete destruction, sooner or later, of this bulwark of freedom.

Representative Democracy or Dictatorship

by HON. GEORGE A. WILLIAMS

WHILE THE STRIFE and passion engendered by the recent controversy over the Constitution and the Supreme Court has in a measure subsided (whether or not it is just a breathing spell will be determined later); it might be well for us to calmly and dispassionately give consideration to some of the principles involved, where the trouble originated, and the possible outcome. It is quite generally conceded that the hatred of popular government has existed all through the centuries. Whether or not men should be permitted to rule themselves through what is known as popular government, or whether they should be compelled to submit to the rule of force in the hands of potentates and dictators, has been the bone of contention throughout the centuries, with varying degrees of success accruing to first one side and then the other.

The founding of the Republic of the United States of America, with its constitutional guaranties of human liberty and popular rule, marked the greatest victory ever achieved by the advocates of human rights. So glorious have been its fruits that nation after nation the world over, in whole or in part, has adopted the same principles of government. In the years immediately preceding the World War there was reason to hope, from outward appearances at least, that government by the rule of the people would soon dominate the earth. Many fondly believed that the World War was a "war to make the world safe for democracy."

New Political Issues

About that time with startling suddenness communism reared its head and quickly took possession of one of the great countries of the world. Communism is a dictator form of government with a complete denial of every individual right, both civil and religious. Under communism the individual has no voice in government or in society. He is denied the right of free expression, property rights, and religious rights. Under penalty of death he must refrain from expressing his thoughts, he must not seek to acquire property, and he must refrain from every outward evidence of religion. In the subju-

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gation of the people, human aspirations and hopes are crushed.

Closely following the advent of communism, another great nation was brought under a similar form of government called fascism. And still another great people lost their liberties to a system of government termed naziism. All three systems of government—communism, fascism, and naziism—are essentially the same except that fascism and naziism have not yet completely destroyed property rights and religious rights, though civil and religious liberty as we know them in the United States do not exist under either fascism or naziism. Under these three systems of government there is no recognition of the rights of the individual. He does not have any rights. He must, and does, bow his head to every demand of the dictator with no thought of the human rights and privileges inherent in the soul of every created being. He is reduced to the status of a mere automaton, subject to the will of the government under which he lives.

It is just as well to speak of these three isms as one. It matters not by what name it may be known. Any government founded upon such principles constitutes a deadly menace to every right and liberty vouchsafed to mankind by the Creator of man, and to the happiness and well-being of the human race. For this thing is not being done in a corner. It has in a short time become the world's great problem—a problem so fundamental that upon its proper solution depends the future of civilization as we know it. It harks directly back to the Dark Ages, when there was no liberty, when the inherent longings of the human soul were crushed under the iron heel of despotism.

The proponents of totalitarianism or authoritarianism have their agents in every land. They know neither defeat nor discouragement. So successful have been their efforts that, as an editorial in *Editor and Publisher* expresses it, "Less than twenty-six per cent of Europe's population enjoys anything that remotely resembles liberty and freedom of expression and conscience. . . . Three hundred and sixty million people in Europe are living under the black pall of dictatorship and regimentation. It is a spectacle

which takes us straight back to the thirteenth century."

Enemies of Democracy

Mark Sullivan, noted press correspondent, says, "Naziism-fascism is on the march. . . . What the world faces now is a surge forward of the nazi-fascism type of authoritarian government. The world does not yet realize how far nazi-fascism has advanced as a result of the events of the last month." Thoughtful observers note that the advance has been such that powerful world nations, so-called democratic nations, render homage to nazi-fascism and stand in fear of its threats. And how about the United States? It is common talk among the high and the low, in the press and on the forum, that the enemies of popular government are making great strides in our own land. They are found firmly entrenched in our universities, in our pulpits, among the intellectuals, and in high official position in State and nation. It is only fair to state that many may be sincere, misled and deceived by the poison propaganda from the Old World. Others would destroy every vestige of the liberty and freedom which have contributed so much to the happiness and prosperity of the people of the land. Who can understand the spirit that motivates the college man before his class, or the minister in the desk, as he presents to his hearers principles subversive of our form of government? Who can have faith in the sincerity of the statesman, so called, when he betrays his trust in repeated attacks on the tried and proved fundamentals of a free government, which fundamentals he has taken a solemn oath to "preserve, protect, and defend"?

To overthrow our representative democracy and establish a dictatorship, the enemies of a free government must first bring into disrepute and destroy the legislative and judicial departments of government and centralize all power in the executive. We have witnessed the attempt to do this in the United States during the recent months. That the attempt has so far failed is not the fault of those engaged in the attempt. That they are still bent upon accomplishing their purpose, we have every evidence. It is a safe prediction that if the enemies of free government triumph in the United States, civilization in its higher sense is doomed. The United States is the last citadel of defense in the supreme struggle of democracy versus dictatorship. The issue is joined. What will the people of America do in the crisis that is before us?

Let me quote Mark Sullivan again: "As things now stand in the world today the authoritarian government and society that America will get if a change comes will be the nazi-fascist type. How any American can tolerate that possibility passes under-

standing." He then pleads for opposition to "all such innovations, whether already adopted or merely proposed, that tend to take America toward authoritarian government. That included to resist destruction of the courts, to resist invasion of the independence of Congress, to resist invasion of the rights of individuals, such as the right of the farmer to raise and sell what he pleases; to preserve the American principle that minorities have rights that are inherent in man and embodied in the Constitution, rights which no majority can take from them. In short, to resist the authoritarian type of government, to preserve the American one."

A Solemn Warning

A multitude of voices is calling out today in warning and alarm because of the threat to dearly bought and highly prized liberties of our land and of the world. One leading American statesman said in a recent address, "We cannot vest too much power in a few individuals as we have and remain a representative democracy. We cannot transfer this (legislative) power to government and last long as a democracy. This country must decide whether we are going to be a democracy or a fascist state." Another who ranks high among American statesmen, speaking at the New York *Herald-Tribune* Forum on Current Problems, said, "Certainly the world is living dangerously. . . . Truly force and might have been rising in the world. . . . The first question before us is whether the philosophies of communism, fascism, and liberalism can live together on the same earth."

It is clearly evident that there is at stake in this controversy the continuance of that kind of government in which the people are supreme, and in which there is recognized the right to the possession and enjoyment of both civil and religious liberty. That the trouble originates with those forces not in harmony with these concepts of human rights is also evident.

The struggle must terminate in victory for one side or the other. There can be no compromise. Liberty and slavery cannot abide in the same house. Representative government can have no concord with dictatorship. The people must choose one or the other. It is well that we as American citizens give careful thought to the matter, for we must make the decision. And let there be no mistake. The destructive forces of governmental dictatorship are on the march—forces which, if unchecked, will never cease their efforts until every vestige of human liberty is crushed. What is the choice? Which shall it be? Representative democracy, with its recognition of human rights, or a dictatorship, with suppression of the liberties that have made us a great and free people?

Quezon and Religious Liberty

by **R. R. SENSON**

*Secretary of the Religious Liberty Association
of the Philippines*

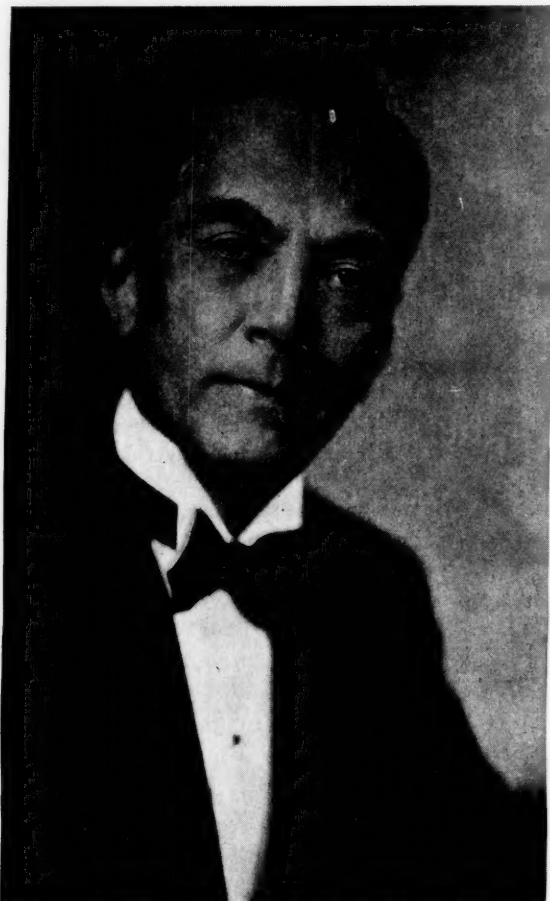


PHOTO COPYRIGHT BY HARRIS & EWING

President of the Philippines, Manuel Quezon

WHEN THE LATE and happy revolution of the Filipino people secured for them exemption from Spanish control and bondage, they hoped that the gloom of injustice and usurpation had been forever dispelled by the cheering rays of liberty and coming independence. When at last America took control of the reins of their government, they were made happy with the assurance that their most cherished longing would be granted to them—freedom to worship God in harmony with the dictates of conscience.

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In a number of official pronouncements, America made known from the inception of her rule that the Filipino people would be granted the fullest freedom of conscience. But this bright hope has been somewhat overcast with apprehensions, for in spite of the constitutional guaranties, the tendency at least for the present is toward a covert union of church and state. Apprehensions were heightened when early this year a bill, manifestly religious in content, was introduced into the Philippine National Assembly through the instigation of influential religious leaders.

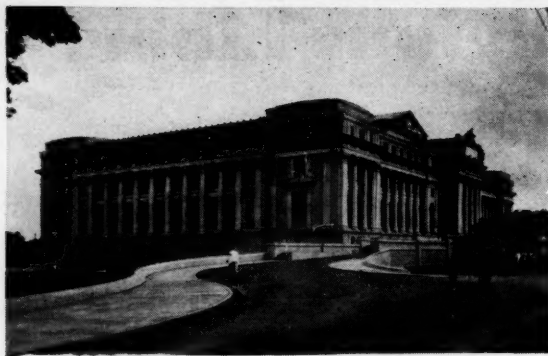
This bill would compel the school authorities to make provision in the public-school program for the teaching of sectarian doctrines by religious teachers. It is obvious that the proponents of the measure aim to make the public schools instruments of the church in the propagation of their particular creeds.

Filipinos Opposed Union of Church and State

The history of the Philippines reveals that the Filipinos have always opposed the union of church and state. The "Cry of Balintawak" was essentially a declaration of grievances and an expression of desire to change a form of government under which the Filipinos could not attain redress for grievances specifically set forth, and under which they could not enjoy the rights and privileges of a free people. It was a protest against a system temporarily in control of the government, which consistently sought to deny to the Filipino people their fundamental rights.

A careful perusal of General Aguinaldo's first decrees, Don Isabelo de los Reyes' Memorial to General Primo de Rivera, then governor general of the Philippines, or Rizal's letters to Marcelo del Pilar while in Paris, will reveal that these documents contain a long list of very definite acts of misgovernment. The important thing sought for was not a change in the form of government, but a frank and generous recognition of the rights for which all just governments are instituted. The essential thing is the security and fullness of life which the mass of people must enjoy.

It is most enlightening to read the mind of the Filipino people at that time as depicted in the first



COURTESY, C. H. TAVENNER

The Legislative Building of the Philippines in Manila. Designed and Built by Filipinos

provisional constitution they formulated. The preamble states that this "has been the end-sought by the revolution." Article 22 states:

"Religious liberty, the right of association, the freedom of education, the freedom of the press, as well as the freedom in the exercise of all classes of profession, arts, trades, and industries are established."

Early Desire for Religious Freedom

Again, in Mabini's "Constitutional Program for the Philippine Republic," we find in section 12:

"The Republic as a collective entity does not profess any determined religion, leaving to individual consciences full liberty of selecting the one which may appear most worthy and reasonable."

It is evident that the idea of separation of church and state must have been uppermost in the minds of the early Filipino leaders. Having lived under a religio-political government for more than three hundred years, and being aware of the baneful results of such a union, the Filipino people were fully committed to the idea that once they were given a chance to run their own government, such a union would not exist. The clause in the Malolos constitution which ordained the complete freedom of worship is another landmark in the progress of the Filipino people. But it was not passed without a struggle. In fact, of all the articles in the said constitution, this one on religion provoked the longest and most bitter discussion.

Something strange has taken place in the Philippines very recently. The measure requiring compulsory religious instruction in the public schools is a clear indication of the tendency to unite once again the church and the state. Fortunately for the Filipinos, they had in President Manuel Quezon a real friend and defender of their rights. Although the measure was passed in the National Assembly by a big majority, the president stood his ground firmly and declared for the continuance of the separation of church and state, as ordained by the constitution.

In the pastoral letter of the archbishop of Cebu, there is a veiled threat to take the question to the people and to make it an issue in the forthcoming general elections. Some of the high functionaries of the state were threatened with a loss of their personal prestige if they continue to oppose the measure on compulsory religious instruction in the public schools.

In a strongly worded statement, President Quezon said in part:

"The pastoral letter signed by the metropolitan archbishop of Cebu and the suffragan bishops of that ecclesiastical province is an incontrovertible evidence that we did face at the last session of the legislature, and we do face now, one of the most menacing evils that can confront the government and people of the Philippines, namely, the interference of the church in the affairs of the state. It seems that the archbishop and bishops who have written this pastoral letter are blind to the lessons of history, including our own during the Spanish regime.

"It should be unnecessary to remind the ecclesiastical authorities in the Philippines that the separation of church and state in this country is a reality and not a mere theory, and that as far as our people are concerned, it is forever settled, that this separation shall be maintained as one of the cardinal tenets of our government. The ecclesiastical authorities should realize, therefore, that any attempts on their part to interfere with matters that are within the province of the government will not be tolerated."

The Veto Message

In giving his veto message, President Quezon said: "After a conscientious study of Bill No. 3307 of the National Assembly, entitled, 'An Act to Carry Out More Effectively the Provisions of the Administrative Code Regarding Optional Religious Instruction,' I have come to the conclusion that it is unconstitutional, and therefore, I deem it my duty to veto the same. My conclusion is based on the following grounds:

"First—Contrary to the provision of Article VI, Section 12, paragraph (1) on the Philippine constitution, the real subject of the bill is not expressed in its title.

"Second—In violation of the cardinal principle of constitutional law that a discretionary power granted by the constitution to the executive may not be abridged by either the legislative or the judicial branch of the government, the bill restricts the discretion vested by the constitution in the superintendent of schools to fix the hour for religious instruction in the public schools.

"Third—The bill substantially changes the policy embodied in Section 928 of the administrative code regarding optional religious instruction, the maintenance of which is ordained by the constitution."

The presidential veto was well received by the people. The victory for liberty of conscience was full and complete. The Filipino people reaffirmed their stand for this great principle of complete separation of church and state.

Eternal Vigilance the Price of Safety

The love for religious liberty is one of the strongest sentiments God has implanted in the human heart. The freedom which conscience demands in the realm of religion, transcends every other claim, and inspires the human mind to assert its inalienable rights and to suffer and endure as in no other cause.

The annals of history reveal that the struggle for liberty of conscience has led men in all ages to look the sternest despotism and tyranny in the face, and unflinchingly declare for the natural rights of man. As one author says: "Principalities and powers that exercised absolute authority in all things over the conscience of men, were frequently made to tremble before daring men who had the courage to assert their convictions in the face of tremendous obstacles."

Religious liberty has been a beacon light that dispelled the gloom of the Dark Ages, bringing the freedom, progress, and enlightenment of our modern times. If ever the time comes when this precious heritage perishes from the earth, this old world is doomed.

Our present liberties have been bought for us at the sacrifice of much blood and treasure by our forefathers. But the future retention of these liberties, secure and inviolate, depends upon the same sort of sacrifice, devotion, and patriotism which characterized the lives of those who preceded us. Just as the jungle, when there is neglect and inattention, may slowly creep in with terrible relentlessness to cover the little clearing wherein flourishes in peace and happiness the home and the settlement, so with equal stealth and relentlessness the influence of selfishness and irresponsibility may slowly creep in and destroy the little clearing which by the painful and self-sacrificing labor of our ancestors has been made to grow and flourish. Here, as everywhere, eternal vigilance is the price of safety.

Experience witnesses that ecclesiastical establishments instead of maintaining the purity and efficacy of religion, have had a contrary operation. For more than three centuries the legal establishment of Christianity has been on trial in the Philippines. What have been its fruits? Pride and indolence of the clergy, ignorance and servility of the laity, superstition, bigotry, persecution. If we may inquire of the early teachers of Christianity as to when it appeared in its greatest luster, we shall doubtless be answered that it was during the time prior to the incorporation with civil power.

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It is needless for us to enumerate the many attendant evils that result from the union of church and state. They are too many to mention. The foul depths of hypocrisy to which men descend, the dragging of holy things through the mire of politics, the blasphemy ever arising to the lips of the scoffers, the vile bigotry of the priesthood, the fiendish cruelty, the malignant rancor, the envy, hatred, malice, and uncharitableness which have their birth among men under the sheltering wing of an established religion,—all these are familiar to us.

It is not enough for us that this union merely be frowned upon, but it is also important for us to root it up, leaving not the smallest fiber in the ground, lest the weed grow and spread over us as it did in the past, converting the green fields of happiness in this world into a treacherous wilderness, and cutting us off from the hope of truth and justice.

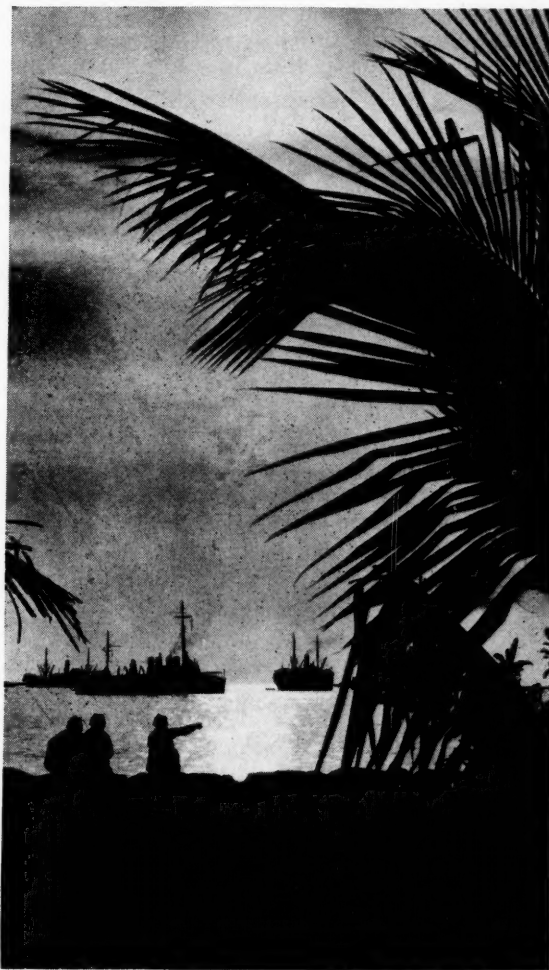


PHOTO BY EWING GALLOWAY

Silhouette of Ships in the Harbor of Manila in the Philippine Islands

A Little-Known but Priceless Document

The Tercentenary of the "Civil Compact" of the Town of Providence

by VARNER J. JOHNS

Attorney at Law



THREE HUNDRED YEARS AGO, Roger Williams, prophet of religious freedom, made a way through the ice-clad forest wilds of New England to establish a haven of liberty on the banks of the Mooshassuc. Providence guided Roger Williams in the day of 1636, and the city of Providence was rightly named. For here was established, under God, the first New World settlement in which liberty of conscience was made forever sure.

The Bay Colony of Massachusetts was a religious state, with all the rigid discipline that that implies. The Puritans had left the shores of old England, to seek the freedom of a new world. But this freedom was sought for themselves, and not for others. They had not yet learned the heaven-born words, "Proclaim liberty throughout *all* the land unto *all* the inhabitants thereof." Lev. 25:10.

The Bay Colony was a "state within a church," and as such, was intolerant of "heresy." Roger Williams, the preacher of Salem, proclaimed the gospel of liberty of conscience. The church dare not enter the domain of the state; the state must not be made to enforce the will of the church. Church and state must be separate. But to separate that which had been united for so many long, weary centuries was no easy task. The history of the ages has been written with a pen of steel, dipped in the blood of martyrs. Liberty was long sought, and dearly bought. And the Puritans had not yet found that priceless pearl for which they had braved the hardships of a wilderness world.

Roger Williams, says Bancroft, was "the earliest and lifelong apostle to the Indians." Fortunate for him that in him the Indians recognized that fidelity

and sincerity and sympathy and love which make all men akin. For when the man whose only heresy was to teach and preach and practice freedom of conscience for all men, was forced to flee from the wrath of his fellows, he found refuge with Massasoit, the friendly chief of the Narragansets. Land was granted, and the settlement of Providence was made. To Rhode Island belongs the double honor of having Roger Williams for its founder, and "entire liberty in all religious concerns" for its heritage.

A Priceless Document

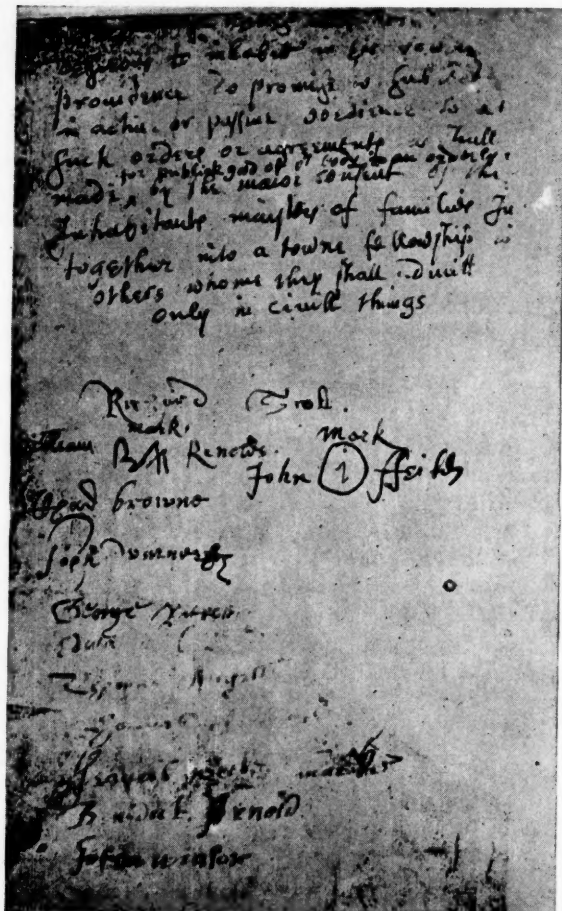
There are many precious documents dear to the hearts of those who love freedom. The Magna Charta, the "great charter" of English liberty; the Mayflower Compact, the first written rules of government in America; the Constitution, our immortal document of freedom, are deservedly well known to all. There is another compact, not so well known, but of priceless worth. This is the "Civil Compact" of Providence, which was first used some time in 1638 or 1639. This document, which is not dated, reads as follows:

"We whose names are hereunder, desirous to inhabit in the town of Providence, do promise to subject ourselves in active or passive obedience to all such orders or agreements as shall be made for public good for the body, in an orderly way, by the major assent of the present inhabitants, masters of families, incorporated together into a town fellowship, and such others whom they shall admit unto them, only in civil things."

Four words, "only in civil things," meant everything to the cause of freedom. The separation of

church and state—the first that had ever been known—was accomplished. Freedom of conscience was a fact. After centuries of fighting for the ideal, a decisive battle had been won. All honor to the man who gave to America and the world freedom of religion in a free state. The greater honor is his because he himself was a minister of the gospel. A great minister, a great statesman, Roger Williams made Rhode Island a citadel of civil and religious freedom. Providence was the directing hand; Roger Williams was the minister of a guiding Providence.

The cause of freedom is not won in a single battle. Liberty, like virtue and righteousness, must be fought for as long as the world harbors selfishness and hatred. "Eternal vigilance" is the watchword for every liberty-loving people. So it was that the little colony had its struggles. There are always with us those who confuse liberty with license. To Providence in those



The Civil Compact of the Town of Providence
The Original Document of This Compact Is in the City Hall in Providence, Rhode Island. It Is in the Handwriting of Roger Williams. It Is Not Dated, and the Librarian of the Rhode Island Historical Society, Mr. Howard M. Chapin, States That He Does Not Think There Is Any Way of Determining Whether the Compact Was Written in the Latter Part of 1638 or in the Early Part of 1639. Newcomers to the Town Were Asked to Sign This Compact, in Which They Promised Obedience "Only in Civil Things"

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early days came flocking many fanatics and misguided enthusiasts. Impatient of tyranny, they became extremists, forgetting that liberty is the handmaiden of law. Lawlessness and anarchy are twin foes of law and liberty. All the universe lives in obedience to the law of God. Chaos begins where law ends.

Roger Williams was in England, seeking a new charter for the new colony. Tidings of the troubles from restless troublemakers reached him, and he wrote a letter in which are graphically described the basic principles of a successful state. This is the letter:

"There goes many a ship to sea with many hundred souls in one ship, whose weal and woe is common: and is a true picture of a commonwealth or a human combination or society. It hath fallen out sometimes that both Papists and Protestants, Jews and Turks, may be embarked into one ship. Upon which supposal, I do affirm that all the liberty of conscience that ever I pleaded for turns upon these two hinges, That none of the Papists, Protestants, Jews, or Turks, be forced to come to the ship's prayers or worship, nor compelled from their own particular prayers or worship, if they practice any. I further add that I never denied that, notwithstanding this liberty, the commander of this ship ought to command the ship's course: yea, and also to command that justice, peace, and sobriety be kept and practiced both among the seamen and all the passengers. If any of the seamen refuse to perform their services, or passengers to pay their freight: if any refuse to help in person or purse towards the common charge or defense: if concerning their common peace or preservation, if any shall mutiny and rise against their commanders and officers: if any should preach or write that there ought to be no commanders, nor officers, because all are equal in Christ, therefore no masters, no laws, nor orders, no corrections, nor punishments: I say I never denied, but in such cases, whatever is pretended, the commanders may judge, resist, compel, and punish such transgressors according to their deserts and merits. This if seriously and honestly minded, may if it so please the Father of lights, let in some light to such as willingly shut not their eyes."

The ship of state in Roger Williams' day needed liberty, and it needed also law and order. The storms were weathered, the ship of state kept in its course in the way of freedom. Today a mighty liner plows the deeps of world affairs. Now as then, and now more than then, constitutional law, wise enforcement of that law, and unswerving loyalty to that law are needed on board the good old ship U.S.A. Now as then, and now more than then, liberty must live in the hearts of men. Liberty is more than a declaration of rights. Liberty lives, if it lives at all, in the souls of living men. When integrity of character, love of principle, loyalty to the right, are no longer

cherished by the men of a nation, self-government on the broad principles of civil and religious freedom is at an end.

On the Statehouse of Rhode Island are engraved the words found in her charter: "To hold forth a lively experiment that a most flourishing civil state may stand and be best maintained with full liberty in "religious concerns." The spirit that found lodgment in the breast of Roger Williams lives on in that declaration. How long will this continue to be the spirit of America? Evil influences are at work. Our ship of state is sailing between the Scylla of fascism and the Charybdis of communism. As long as men like Roger Williams are at the helm, and the sturdy timbers of liberty have not been removed by malicious hands, we have nothing to fear. But we live in strange times. Dangerous doctrines are being thought and taught. Who would have dreamed that the time would come when more than thirty bills could be introduced into Congress aimed directly at that

defender of constitutional liberty, the Supreme Court, when other bills could be introduced which would take away the rights of free speech, and still others which would commit Congress to religious legislation through Sunday-rest laws?

We would do well to be alarmed. Liberty must not be sold for a mess of the bitter pottage of class privilege. We must not barter away our rights and the rights of our fellow men for the tinsel of personal advantage. Siren voices are heard in the land. They clamor for communism; they advocate governmental paternalism; they demand religious legislation; they attack the Constitution; they would introduce new and strange legislation and destroy the power of the Supreme Court to curb such legislation. Dangerous rocks are on the right and on the left; our only course is the one charted for us by men like Roger Williams. Let us again think the thoughts and contend for the principles of the men who wrote the "Civil Compact" of the town of Providence.

"United We Stand"

*Excerpts From an Address by the Former
President of the American Bar Association*

ARTHUR T. VANDERBILT

WE FACE TODAY a restless world in which ceaseless change seems everywhere the chief certainty—a world, moreover, in which on at least four continents the forces of ignorance, tyranny, and oppression stand arrayed against the powers of reason, of law, and of human liberty, in preparation for we know not what, perhaps for the ultimate titanic struggle to decide the type of civilization, if any, that will survive. . . . Surely, there is no subject more pertinent, more deserving of the attention of judges and lawyers, especially at a time when the forces of ignorance, tyranny, and oppression are raising their ugly heads in our midst with the avowed purpose of destroying the body politic. . . .

Defending the Independence of the Judiciary

In times of crisis the American Bar Association has never failed to rally to the defense of the doctrine of the independence of the judiciary. From 1911 to 1919, it attacked and annihilated the twin heresies of the recall of judges and the recall of judicial decisions. More recently it successfully led the lawyers of the country in opposition to a more direct

attack on the integrity of the courts as a coordinate branch of the Federal Government. If there is any one point on which the members of the American Bar can be found thinking in unison, it is with respect to the necessity in a democracy of an independent and untrammelled judiciary. This belief is no peculiarity of the American lawyer. For those who cannot or who pretend that they cannot understand it, let it be said that it is a fundamental tradition wherever the common law or constitutional rights exist. As a distinguished English official, speaking of his own country, puts it:

"It is a commonplace with us, and a well-justified commonplace, that our liberties depend on the complete severance between the executive and the judicial functions and on the independence of the judges, from the highest to the lowest, from any pressure or influence from the executive arm." . . .

Improving Administration of Justice

We must face the obligations which confront us presently. We must recognize the fact that all of the unreasoning destructive forces that wrought such havoc to the courts and to the profession a century ago

are again at large, some of them in aggravated form. If democracy is to survive, and with it law and liberty, it will be because our people have faith in the integrity of our courts, from the highest to the lowest.

It is not enough for us to tell the people . . . that the courts under our constitutional system are the bulwarks of individual freedom. The people must have such confidence in the efficiency, the integrity, and the wisdom of all of our courts as a matter of everyday experience, that in times of stress they will instinctively feel safe in resorting thereto for the vindication of their rights. . . .

There never was a time when it was more important to have independent and courageous, as well as impartial and competent, judges. . . .

Dangers of Commingled Powers

The administrative tribunals are here and here to stay, because they serve, or can be made to serve, useful purposes. So is the automobile here to stay. But the law requires that the automobile be operated by a competent and experienced driver. It is equipped with brakes as well as with a motor.

The difficulties with administrative tribunals spring in part from their organization, commingling in one body, executive, legislative, and judicial powers with respect to a specific subject matter. Every one realizes that to commit all executive, legislative, and judicial powers to one man or one body of men would spell despotism, but too few have sensed the drift in that direction from an increasing number of administrative bodies working together or under a common leadership. It is not without significance that hundreds of millions of dollars were paid in processing taxes under the Agricultural Adjustment Act without a test of the constitutionality of the imposition for lack of a test case until the issue was ultimately raised by the receivers of insolvent taxpayers. . . .

I fear, however, that so much of the attention that has been devoted to administrative law has been in criticism of its product, namely, adjudication, that we have lost sight of its origin, namely, legislation. Each administrative tribunal springs from a statute. For effective operation there doubtless are sound reasons for combining executive and *nisi prius* judicial powers. The case is far less clear for the granting away of plenary legislative powers. Why should not administrative commissions be obliged to submit their proposed legislation to the legislature or at least a committee thereof? How else may we avoid the danger, so clearly pointed out by Harold J. Laski in his pamphlet entitled, "The Limitations of the Expert?"

"We must ceaselessly remember that no body of experts is wise enough or good enough to be charged

with the destiny of mankind. Just because they are experts the whole of life is for them in constant danger of being sacrificed to a part; and they are saved from disaster only by the need of deference to the plain man's common sense."

Would not the application of this suggestion serve the double purpose of a brake on the experts on the commissions and a means of informing the legislature, which is supposed to represent the plain man's common sense, as to just how well or how poorly the administrative machine is working? Our oldest tribunal is the Interstate Commerce Commission. It has been regulating our railroads for over fifty years. Yet, one third of our railroads are in receivership, and a third more are trembling on the brink. Would it not have been better all around if Congress had kept in closer touch with these problems over the years instead of delegating plenary powers to the Commission? If this practice had been followed, it is unthinkable that any industry would have been subjected to the general supervision and control of several administrative agencies with conflicting powers.

This question is part and parcel of a larger problem of paramount public importance. In a period of transition, of shifting standards, how are we to prevent an abdication of the legislature, as a coordinate branch of government, to the executive arm? The tendency in this direction has been progressing, particularly in the national government, at an alarming pace. If it is not abated, it is not impossible to imagine the time when the Chief Executive will be primarily engaged in formulating legislative policy and the legislature in attending to matters of patronage. . . .

Here are grave issues of fundamental importance and of far-reaching significance both to the profession and to the public. The public naturally looks to us to cope with them. Will the expectation of the public be justified? . . .

Promoting Respect for Liberty and Law

Faced definitely in a period of world crisis with the responsibility for improving the agencies of the law as a means of preserving our representative democratic form of government, the bar can and will solve these vital problems.

Man does not live by law alone. Law is only tolerable because it makes individual liberty possible. Without law, liberty would be nonexistent except for a favored one or a favored few. Liberty, then, is the chief concern of the bar as it should be of a democratic government. It has never been phrased better than by Heraclitus of Ephesus twenty-five hundred years ago:

"The major problem of human society is to combine that degree of liberty without which law is

tyranny with that degree of law without which liberty becomes license."

The world is still pursuing that ideal. The history of Western civilization is essentially the history of the development of human freedom. With the Renaissance came intellectual freedom. With the Reformation came religious freedom. With the Declaration of Independence, our Federal Constitution and its Bill of Rights, came political freedom. With the Industrial Revolution and the development of natural science came a degree of freedom theretofore unknown from the forces of nature. Now we are in the midst of a world-wide struggle for economic freedom. In some countries, the earlier forms of freedom, attained by much toil and bloodshed, are being sacrificed to the struggle for economic freedom, or rather, the mirage of it.

Intolerance stalks the globe. The entire world seems to be dividing into two classes, one believing that whatever is, is right, the other, that whatever is, is wrong. Reason and common sense seem to be in danger of being crushed between the upper and nether millstones of conservatism, so called, and of liberalism, so called. Some leaders in public life seem to be unable to distinguish between freedom of speech, freedom of the press, and the right of lawful assembly

on the one side, and treason to government on the other. We have reached the point where suggestions for concentrating one's opponents in Alaska are seriously advocated in open court by men claiming to carry the banner of democracy. Such declarations sound strangely alien in the America of George Washington, Benjamin Franklin, John Adams, Alexander Hamilton, and Thomas Jefferson. Yet there are many people to whom this philosophy of intolerance for views they dislike has a strong appeal. They fail to realize that it necessarily precludes intellectual freedom, religious freedom, and political freedom. They fail to comprehend that under this philosophy of intolerance America never could have become free.

To the credit of the bar let it be said that it has never failed to realize the essential relation between law and liberty, between the independence of the courts and the maintenance of our constitutional guaranties of individual freedom in the age-long struggle for popular government. The challenge of intolerance the organized bar will meet by uniting to perfect the processes of judicial administration, both in our traditional courts and in the newer administrative tribunals, and by insisting on the maintenance of their independence and integrity.

Is the Sabbath Civil or Divine?

by B. F. KNEELAND

MUCH HAS BEEN SAID of late in both press and pulpit about a so-called "civil sabbath," and there seems to be much misapprehension of the issues involved and the real reasons underlying this Sunday-law agitation. Is there any true basis for a "civil Sabbath"? A Sabbath without religion seems just as much out of place as a Christian without religion.

While the Sabbath is a time of rest, and the meaning of the word is rest, resting alone does not make the Sabbath, nor does forbidding work on a certain day make it the Sabbath. God rested on the seventh day, and then blessed and sanctified the day before it became the Sabbath. Nothing but the sanctifying power of God's presence can make the Sabbath, and any other kind of Sabbath, unhallowed by God's presence and blessing, is only a hollow mockery. We have civil rest days, such as Washington's Birthday, Independence Day, and Labor Day; and we also have days like Thanksgiving Day and Christmas, the observance of which is closely associated with religious services; but while civil laws sometimes

provide that no one may be compelled to work on a holiday, there is no hint of punishing one who does work. A "civil sabbath" could never be a holy day; it could only be a holiday. When you take religion out of the day, it loses all sacredness and is on the same level as other days.

The Sabbath is a divine, not a human, institution. When kept holy as a religious day, it is through its hallowed influence beneficial to both man's physical and spiritual nature; and its observance, like regard for any other Christian duty, is a blessing to the community. But it is no more a civil institution than the Lord's supper or baptism, and to enforce it as a health regulation is just as absurd and inconsistent as to compel people to be baptized as a sanitary measure, or to force them to say the Lord's prayer as a literary requirement.

A forced cessation from labor, which is said to be the distinctive feature of this so-called "civil sabbath," may become a distinct menace to both the health and the morals of the people, as it is well known

that idleness is a very definite contributory factor in drunkenness and crime. How many times we have heard the earnest plea made to councilmen and legislators, "Don't turn our holy day into a holiday!" A truly civil sabbath would have to be a real holiday.

I think I do the proponents of this "civil sabbath" idea no injustice when I say that what they really want is not a "civil sabbath" holiday. They desire laws which will, as far as possible, prohibit the doing on Sunday of anything which does not fit in with their ideas of what is proper to do on the Sabbath.

This kind of "civil sabbath" idea is not exactly a new one. In the time of Christ the Jews seem to have worked out the idea quite thoroughly. In fact, they spent so much time figuring out different ways in which they could compel people to rest, that they quite forgot the real purpose for which the Sabbath was made.

Jesus Accused of Breaking the Sabbath

The historian, Geikie, in his "Life and Words of Christ," says, "No feature of the Jewish system was so marked as its extraordinary strictness in the outward observance of the Sabbath as a day of entire rest." They showed us how to prohibit many other kinds of work besides commercialized sports. But did Jesus give His sanction to these civil laws compelling people to rest on the Sabbath? No. Instead, He seemed to go out of His way to show His contempt for them.

One of the bitterest accusations made against Jesus by the Pharisees was that He had broken their man-made Sabbath laws. Never did Jesus break God's Sabbath law. He kept all His Father's commandments. He showed that the Sabbath was made for man's good, and hallowed its observance by His own example; but He was continually trampling upon these human-made "civil sabbath" laws. The man whom Jesus healed and told to carry his bed home on the Sabbath, was accused of Sabbathbreaking; and a man doing a similar act now on Sunday in many of our American cities would be liable to arrest for violating our modern "civil sabbath" laws.

One fact stands out clearly in the history of nations, both ancient and modern, and that is that the final result of the state's tampering with religious questions has been harmful to both state and church. The first Sunday law ever made (Constantine's Sunday edict, 321 A.D.), was only the forerunner of other more drastic religious laws which finally deluged Europe with blood. Many of these were camouflaged as civil laws, but this did not make them any less the children of religious prejudice and bigotry.

An act which is uncivil on Sunday is also uncivil on Monday. A Christian's right to worship without

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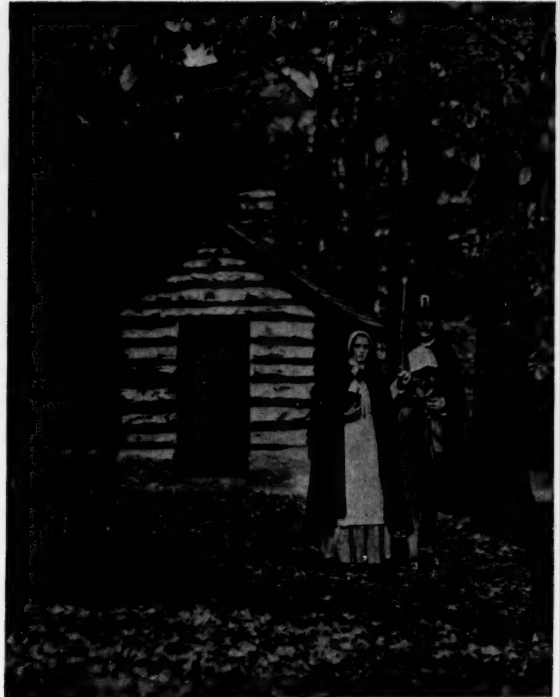


PHOTO BY H. M. LAMBERT

Sunday Sacredness Cannot Be Established by Law. Any Effort to Do This Will Infringe Upon the Religious and Personal Rights of Man

molestation is safeguarded on Monday as well as on Sunday. The fact that hundreds of thousands of Christian people observe the Sabbath of the fourth commandment on the seventh day of the week, or Saturday, a day which is in many places the busiest day of the week, proves the argument false that one cannot keep the Sabbath unless all keep it.

Would it not be much better for the church today if it would follow the example of Christ and the apostles, who fought sin and saved sinners by the power of the gospel, and would spend no time appealing to legislators for more human-made laws to force outward conformity to church customs? Why waste so much energy seeking for state backing of a religious custom, when we have all the resources of Omnipotent power waiting for us if we allow God to work with us?

I love the Sabbath. It is the blessed memorial of the One who created the world and died on the cross to redeem me from sin and its effects. To me it stands as a marvelous revelation of God's love and power, and I protest with all my soul against these efforts to place it before the world as a "civil sabbath," which depends on the votes of a few fallible men who happen to sit in some legislative body or city council. Let us have more dependence on the law and power of God, and less on the laws and votes of men.

America Drifting From Original Moorings

by C. S. LONGACRE

WHEN THE AMERICAN GOVERNMENT was founded as a democracy, and the Federal Constitution was adopted as the fundamental law of the land, the church and the state were completely separated, so far as the Federal Government was concerned. Most of the thirteen original States still maintained state religions, but gradually each disestablished its state religion, though all still retained many religious laws upon the State statute books and enforced religious customs and usages under duress of the civil magistrate. Of late years many of these relics of Puritan times have been repealed by the various States.

State Funds and Religious Institutions

Upon one item, however, all the States were in harmony, and that was that no financial alliance between the churches and the State governments should be sanctioned any longer. This battle was fought out in the early constitutional conventions when the bills of human rights were adopted by the States. A financial alliance between the church and the state was regarded as the most corrupting influence that could be introduced into religion and politics, aside from the injustice it imposed upon citizens who were compelled to support with their taxes a religion that was utterly abhorrent to their convictions.

In order that all citizens might stand on the same equality before the law, and enjoy the full measure of religious freedom, our forefathers who wrote the bills of human rights into every State constitution, inserted in them a declaration that no public or tax funds should ever be appropriated for the aid or support of religion or of educational institutions in which any denominational or sectarian tenet or doctrine is taught, or which were owned and controlled in part or in whole by religious organizations. Most of the State constitutions incorporated a provision similar to the one which was adopted by the people in the State of New York, which reads as follows:

"Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination and inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."—*New York Constitution, Article IX, Section 4.*

It is very evident from the tenor and the language

of these prohibitions, incorporated in practically every State constitution by the founders of our State governments, that they did not intend to have any of the people's tax funds used for education in any other than the State public schools. President U. S. Grant, in a speech at Des Moines, Iowa, in 1875, very clearly expressed the American conception and ideal upon this subject when he said: "Encourage free schools and resolve that not one dollar in money appropriated to their support, no matter how raised, shall be appropriated to the support of any sectarian school. Leave the matter of religion to the family altar, the church, and the private school supported entirely by private contribution. Keep the church and state forever separate."

President James A. Garfield set forth the same fundamental principle of the total separation of church and state when he said: "It would be unjust to our people and dangerous to our institutions to apply any portion of the revenues of the nation or of the States to the support of sectarian schools."

James Madison, in advocating the establishing of State universities, colleges, and schools, "at the common expense," and the withdrawing of State aid and support from sectarian universities, colleges, and schools, declared the American opinion of that time thus: "The settled opinion here is that religion is essentially distinct from civil government, and exempt from its cognizance; that a connection between them is injurious to both; that there are causes in the human breast which ensure the perpetuity of religion without the aid of the law; . . . that these opinions are supported by experience, which has shown that every relaxation of the alliance between law and religion, from the partial example of Holland to its consummation in Pennsylvania, . . . has been found as safe in practice as it is sound in theory.

"Prior to the Revolution, the Episcopal Church was established by law [and supported by taxes] in this State. On the Declaration of Independence, it was left, with all other sects, to a self-support. And no doubt exists that there is much more of religion among us now than there ever was before the change, and particularly in the sect which enjoyed the legal patronage. This proves rather more than that the law is not necessary to the support of religion."

In his memorial and remonstrance against "a bill establishing a provision for teachers of the Christian religion," Madison says: "It is proper to take alarm at

the first experiment upon our liberties. . . . Who does not see . . . that the same authority which can force a citizen to contribute *three pence only* of his property for the support of any one establishment, may-force him to conform to any other establishment in all cases whatsoever?"

Madison tells of the founding of the State universities in Virginia "by public authority and at the common expense" and how some clergymen attempted to introduce the teaching of their own religious creed through the establishment of a professorship's chair, "*though in a very guarded manner*" which "drew immediate animadversions from the press," and "put an end to the project," giving "proof of what would follow such an experiment in the university of the State, endowed and supported, as this will be, altogether by the public authority and at the common expense."

The public-school system was finally established "at the common expense," and the religious schools were completely divorced from the public funds, and from state control. Public funds and public control always go together, and voluntary support means freedom from state control and administration. For more than one hundred years no tax funds in any of the States have been used for the education of children in any schools where sectarian or religious doctrines are taught, or which are under denominational control. No tax funds were permitted to be used to make repairs on religious school buildings, to furnish free lights, water, transportation of parochial-school children, free textbooks, or for tuition and support of students obtaining a religious education in religious institutions.

But during the last few years there has been a gradual drifting away from these original ideals as conceived by the founding fathers of this Republic. For some time certain religious organizations have endeavored to obtain some of the tax funds for the support of their religious schools. Having failed in this attempt, they have besought the State legislatures for free bus transportation of parochial-school children and for free textbooks. Several years ago these religious organizations succeeded by legislative acts in obtaining free bus transportation and free textbooks for parochial-school children in the State of Louisiana. The constitution of Louisiana says expressly: "No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, or denomination of religion, or in aid of any priest, preacher, minister, or teacher thereof, . . . nor shall any appropriation be made for private, charitable, or benevolent purposes to any person or community. . . . No funds raised for the support of the public schools of the State shall be appropriated to, or used for, the support of any private or sectarian schools."

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Gradual Turning Away From Founding Principles

In spite of these prohibitions, the tax funds are used to purchase textbooks and furnish free bus transportation to parochial-school children. The State camouflage of this issue is unique. The State said: We will give these textbooks as a loan to the parochial-school children and not as a gift. The textbooks, however, are never returned to the State, but only to the parochial school to be lent to other children till they are worn out. Since then a few other State legislatures have imitated this legal fiction.

Recently the State legislature of New York passed a law furnishing free bus transportation to parochial-school children. The highest court of New York declared the act unconstitutional. This summer a constitutional convention was convened, and the constitution of New York was altered and amended so that the tax funds of the State could be used to give free bus transportation to parochial-school children.

All this proves that present-day Americans are drifting away from their original constitutional moorings. The American principles of government as conceived by the founding fathers are being slowly, but surely, repudiated. Financial bickerings on the part of the Federal and State governments are being entered into with private and religious schools whereby the tax funds of the people are being used to give a religious education to students in sectarian schools. The public funds are being used by the millions of dollars to pay the tuition of students in religious schools, or for payment for services rendered for the benefit of these religious schools.

Any denomination that has any jealous regard for its own schools, for its own curricula, for the selection of its own teachers and the independent management and control of its own schools and system of education, needs to take warning from the sad and baneful experiences of the past.

The catastrophe which has befallen the churches in other nations in which the governments have given financial aid and support to the churches and their schools furnishes an awful warning of the consequences. Government finances are never separated from politics or from government manipulation, and when that influence begins to operate on the religious institutions of the country, the civil power is destined to dominate and rob religion of its freedom, and its institutions of their independence.

Every liberty-loving citizen needs to take alarm at these financial alliances between the church and the state, for they are the precursors of greater evils. Let every American citizen protest every attempt that is made to alter the ideals of our forefathers on the question of the separation of church and state as set forth in our Federal and State constitutions.

• Editorials •

Voluntary Sunday Observance

EIGHTY grocery-store proprietors of Yakima, Washington, some time ago, inserted a full-page advertisement in the *Yakima Independent*, declaring their intention to close their stores on Sunday by a voluntary agreement, so that their employees might have "the opportunity of attending church services, playing golf, fishing, hunting, or participating in any other pleasure they might see fit."

No one will condemn these eighty grocers for this voluntary act of Sunday observance on their part, giving their employees Sunday off to attend church services or participate "in any other pleasure." But some of the proprietors of grocery stores did not enter into this voluntary agreement. Because of the protest of some of the grocers who agreed to close on Sunday, these were arrested for selling the common necessities of life on Sunday, and were bound over for court trials. Here we take issue with the proceedings. Sunday observance should be a voluntary act. If we admit the state has a right to close grocery stores on Sunday, we must likewise admit it has a right to forbid the "playing of golf, fishing, hunting, or participating in any other pleasure" on Sunday.

The Sunday laws in some of the States forbid all kinds of diversions and recreation on Sunday. In fact, the New Jersey Sunday law prohibits all travel on Sunday except to and from church, and then only for a distance of twenty miles going and coming. It prohibits all music except sacred church music, all "sports," "diversion, and recreation."

The Sunday law of Washington does not allow amusements of any kind, playhouses, or theaters, or baseball, or golf, or hunting or "play at any game of chance for gain." These grocers want to remember that they cannot both eat their pie and keep it at the same time. They cannot consistently enforce one section of a Sunday law upon others and violate other sections of the same law themselves. But Sunday laws and Sunday-law advocates are strangers to both logic and consistency.

If the state has a right to compel a citizen to observe Sunday, it has the right to prescribe the manner of Sunday observance, and prohibit all secular activities, all pleasure and recreation on that day, and it can even compel one to go to church whether he so desires or not. That is exactly what the Puritans did when they prescribed religion by law for dissenters. Religious legislation knows no limitations and no mercy.

We deny the state the right to legislate upon the subject of religion or to enforce religious obligations under the penal codes. The state should remain absolutely neutral upon religious controversies, and should deal only with civil affairs. C. S. L.

Inconsistency of Sunday Laws

THE CITY of Los Angeles, California, recently legalized Sunday dancing and voted to allow theaters to operate and cocktail bars to remain open, but ruled that it should be unlawful to open the public library on Sunday. One of the editors of the *Beverly Hills Independent*, in referring to this inconsistency, says:

"It seems that to open the public library on Sunday would be shockingly indecent and unchristian, if not downright sacrilegious. I fear that the church overestimates the public library as a competitor.

"The Christian church must waken to the fact that it cannot legislate morality or religion into the people. This is the lazy way and the easy way. It takes work and intelligence to give leadership, inspiration, and faith to others. It is in these positive commodities that the church should deal, not in negative prohibitions.

"I resent the archaic blue law which prevents me on a Sunday from fraternizing with the familiar old friends, and with the interesting new ones I have yet to meet, which adorn the shelves of the public library.

"Often the only opportunity I have to visit the public library is on Sunday afternoon or evening, but the library is closed on Sunday."

It does seem strange that the people should vote in favor of Sunday theaters and open cocktail bars and dance halls, but place the public library under the Sunday ban. The editor seems to think that the church people of Los Angeles were responsible for this inconsistency. We do not know whether he is right in drawing this conclusion or not. But we do know that some church people are stockholders in the breweries and distilleries in this country, and that their votes were factors in the repeal of the Eighteenth Amendment.

We also know that many of the most ardent Sunday-law advocates among the early Puritans operated breweries and freely imbibed liquor on Sundays in New England. It may be that the church people of Los Angeles were responsible for this glaring inconsistency in legalizing cocktail bars on Sunday and

closing the public library as a competitor, but we have no way of knowing for a certainty. But we do know that the church people of Los Angeles are greatly in the majority in that city and that they hold any election in their hands.

We agree with the Beverly Hills editor that "Sunday laws" "cannot legislate morality or religion into a people." Religious legislation has been the greatest curse to religion and has been the source of all religious persecution. The sooner the church ceases its attempt to legislate religion into people, the greater progress it will make in winning adherents to its standard. Religion is a personal matter, and its motive power is love, not force.

C. S. L.

Amendments to God's Law

THE CITY COUNCIL of Charlotte, North Carolina, has enacted the following ordinance: "*Six days shalt thou labor, and do all thy work: but the seventh day is the Sabbath of the Lord thy God; in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates*—Provided that the following businesses shall be exempted from the above: drugstores, . . . newspapers, and the sale thereof, . . . taxicabs, . . . gasoline service stations," etc.

The first part of the above ordinance is a quotation from the fourth commandment of the decalogue, requiring the observance of the seventh day of the week as the Sabbath, and the last portion of the ordinance is an amendment to God's Sabbath law, of which the Lord Jesus Christ said: "One jot or one tittle shall in no wise pass from the law." "And it is easier for heaven and earth to pass, than one tittle of the law to fail." It is preposterous for men to think that they can change or amend the law of God.

After this ordinance was enacted, the chief of police issued an edict, saying, "Any one who violates the city's Sunday ordinance next Sunday will be arrested." It would have been just as appropriate to say, "Any one who violates the city's ordinance next Wednesday will be arrested," because the Sabbath of the fourth commandment is "the seventh day" and not "the first day" of the week. To apply the fourth commandment to Sunday is just as inappropriate as to apply it to Wednesday or any other day than the seventh day of the week. God never delegated to any earthly tribunal the prerogative to change or amend His immutable and eternal law. Why will men rush in where angels fear to tread? God never intended that the bluecoats and civil magistrates should enforce the observance of the Sabbath day any more than the observance of the Lord's

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supper or any other spiritual obligation. Religion is a personal matter between the individual and his God, and offenses against God and religion should never be punished by the civil power. The law of God is spiritual, and not secular.

C. S. L.

Church Has Left God-Appointed Plan

IT IS THE SAD HISTORY of the church that all down through the centuries, it has let human nature, ungoverned by the grace of Christ, have control. Finding herself destitute of the power of love, forgetting the only source of power belonging to the church, she has reached out for the strong arm of the state to enforce her dogmas and execute her decrees. This is the secret of all religious laws that have been enacted, and the secret of all persecution from the days of Abel to our own time.

The church has left her God-appointed path, has trespassed over into the sphere of civil government,—the state,—played and paid court in an illicit amour with the state; and always in that unholy relationship men have suffered for conscience' sake. The stake, the gibbet, the rack, the dungeon, and every conceivable method of torture that men and devils could invent have been brought into play to foster a spirit not in harmony with the charter of liberty, civil and religious,—the Bible.

Bigotry is a disease of the soul. It takes firm hold upon men who close their eyes to the light, and leprosy is not more terrible. When the spirit of bigotry comes in, men assume as their God-given right, the control of their fellow men. They take into their own hands a work that devolves upon God alone; they arrogate to themselves the authority to rule their fellow men.

The writer stands squarely on the "Declaration of Principles" of the magazine LIBERTY, number six of which reads:

"We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state."

Let us take our stand upon the platform, "The True American Idea—Absolute Separation of Religion From the State—Absolute Freedom for All in Religious Opinions and Worship."

A. R. BELL.

WE can never be the better for our religion if our neighbor be the worse for it.

Sectarian Use of Public Money

NO MATTER WHAT ARGUMENTS may be advanced to justify appropriating tax money for sectarian enterprises, the fact remains that such a procedure invades the supreme principle of the separation of church and state. Even though such public funds should be used only to purchase free textbooks for parochial schools or to provide the salaries of teachers in such schools, or even to furnish the means of transportation of pupils to attend church school, or to provide social service in the name of such schools, it is the use of state funds to foster sectarian enterprises. Granted that the use of such state funds has a humanitarian side to it, this cannot alter the circumstance that public taxation is being employed to develop religious sects. And by no logical means can it be disproved that when public funds are employed for the purpose of aiding sectarian development, you have union of church and state.

All over America today, attempts are being made to break down the first article of our bill of rights. Congress is not allowed therein to pass any law which in any way looks to the establishment of a state religion. But many of our State legislatures are being urged to do what Congress may not do. In some States laws are being passed the end of which can accomplish no other than the employment of tax money for the promotion of sectarian ambitions. In these States the people are deceived by the apparent benevolence of such things as free textbooks and free bus rides for pupils of sectarian schools. In such localities any taxpayer could justifiably withhold his taxes on the grounds that they would be employed to foster a religion in which he did not believe. This was the course which Dr. John Clifford pursued in London, England, year after year in a country where the state taxes the people to provide for the sect sponsored by the state. But in this country we are confident that any such courageous citizen would be upheld by constitutional law.

Since we have achieved separation of state and church by the sufferings of heroic martyrs and patriots, should we betray their valor and sacrifice as in some States we are doing today? Only a few sects foster sectarian parochial education; so why should the taxes of all other sectarians be employed, against their will, to foster a form of religion in which they do not believe?

We would call the attention of all who believe in religious freedom to the insidious forms of modern evasion of our national principle. This perversion of State and county taxes to sectarian uses could never take place unless the guardians of our liberty were asleep. The enemies of religious freedom fight a

long war. The national principle may not be crushed into ruins by a cataclysmic blow, but the structure may be destroyed by removing a part at a time.

If it is right to use tax money to foster a religious school, why is it not right to use tax money to operate the churches which create the schools? One is as right as the other. Sectarian education cannot be divorced from the sect, and if tax money may be employed for the comfort and prosperity of sectarians by means of free bus rides, why should not public funds be employed to pay salaries to priests and pastors? Also, if it is right for State funds to be used for the development of religious sects through education, then who will deny the state the right to inspect or govern the institutions and religious procedures of the sects it supports? The logic of the situation cannot be evaded. Use of the taxpayers' money for sectarian aims will inevitably and ultimately end in the union of church and state in this land. Christian Americans who believe in absolute separation of church and state, therefore, should stand on guard.—*The Watchman-Examiner, a national Baptist paper, Aug. 18, 1938.*

NEWS and COMMENT

TEST cases of Sunday movies and theaters were recently decided by juries in favor of the amusement interests in Richmond, Norfolk, Roanoke, Danville, and Charlottesville, Virginia. Lynchburg is the only large city in the State that still upholds the Sunday ban, and the theaters are now defying the Sunday law in that city, and opening every Sunday, expecting to win the contest before the courts. The State legislatures are remiss in retaining these religious and antiquated laws upon the statute books when the constitutional guaranties of religious liberty are clearly against such un-American laws.

THE antiquated Sunday blue law of the State of Maryland was invoked in Salisbury, Maryland, against the "Walkathon" manager and his thirty-seven contestants in the contest to see who could keep walking the longest. The warrant charged that the manager "unlawfully did command and wittingly and willingly suffer certain parties (servants) to do work and labor . . . for profit on Sunday." The case is to be tried in the March term of the circuit court. The crime charged in the indictment is the alleged taking of "profit on Sunday." How anybody can figure out under a civil law that it is a crime to take "profit on Sunday," and not a crime to take "profit on Monday," is beyond our comprehension! Here is positive proof that the state is attempting to enforce religion by law.

A NUMBER of cities have passed ordinances, at the suggestion of ministerial associations, prohibiting Sunday funerals. The reason given is that both funeral directors and cemetery workers are intitled to a Sunday rest. But suppose the funeral directors and cemetery workers observe another day than Sunday as a rest day? Well, says one, they can rest on some other day as well as on Sunday. But all citizens should stand on the same equality before the civil law. One man's religious views are just as sacred in the sight of the law as are another man's.

Sunday laws are selfish, and aim to protect the religious views of one sect of believers only. All religious believers should receive equal protection in the exercise of their religious rights. The only way to do this is for the state to remain absolutely neutral upon all religious questions, and enforce only civil obligations and not religious requirements.

IN the last session of the Missouri Legislature a bill was introduced to make Good Friday a legal holiday. Consistency would seem to prove that there is just as much reason for making Good Friday a legal holiday as for making Sunday such a day. Both of them are church festivals and rest entirely upon church authority.

Of course the readers of the *LIBERTY* magazine know that it has consistently opposed all recognition by civil law of purely religious institutions. It is easy to understand how any Christian might be moved to solemn meditation on the anniversary of the death of the Founder of his faith, but there is no Scriptural command for any particular observance of that day. As a matter of fact, the communion and baptism have been given by the Bible as memorials of the death, burial, and resurrection of Jesus Christ.

The observance of Good Friday rests upon ecclesiastical command alone. To attempt to force such a thing upon a commonwealth, or the country at large, by a civil mandate is going beyond the utmost limits of common sense.

A Correction

WE wish to thank one of our readers, an attorney in Washington, D.C., for calling our attention to a wrong caption under the picture on page seven of our last issue. It read, "A View of the United States Senate in 1822." It should have read, "A View of the Old House of Representatives in 1822." The original painting hangs in the Corcoran Gallery of Art in Washington, D.C. We regret having made this mistake, for it is our purpose that every caption shall be accurate.

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SPARKS From the Editor's Anvil

ADVERSITY has put gold into many a man's character, but the bestowal of power has taken the gold out of his character and put it in his coffer.

If you desire to discover the weakness in a human being, entrust him with power.

THE most distinctive mark of a great mind is its spirit of tolerance toward dissenting minds.

A FRIEND is one who is acquainted with all your weaknesses and loves you just the same.

THE end of life is not attainment, but achievement, not fame, but character.

Few people seem to have good sense till they agree with us.

AN unpleasant task when tackled with enthusiasm may become a joyful achievement.

HISTORY repeats itself because men refuse to learn from the experience of others.

THE motive of religious legislation is the mobilization of power in the church to control the consciences of dissenters.

AN orthodox but misguided, narrow-minded zealot often becomes a greater menace to the public good than ten thousand advocates of error.

HE who accepts a gift from the king, puts himself under obligation to his sovereign.

ABIDING love is a jewel, a gift from God, which all the wealth of the world cannot buy.

MODERN civilization replaces swords and spears with machine guns, howitzers, tanks, and bombing planes.

NOT until the world lives for eternity can we hope for a brighter and better today.

THE imperatives of religion are not dependent upon political force, but upon voluntary action.

A HAPPY and victorious Christian is one who enjoys his religion rather than endures it.

A PROBLEM is never solved by taboo regulations nor by labeling it with ugly epithets.

WHEN men have lost hope and heart, they need a spiritual tonic that inspires faith, and not a legal whip to line them up.

GOD made true religion to be lived, not to be enforced under civil penalties.

CHURCH creeds are made by men, and often belie the God they profess to honor.

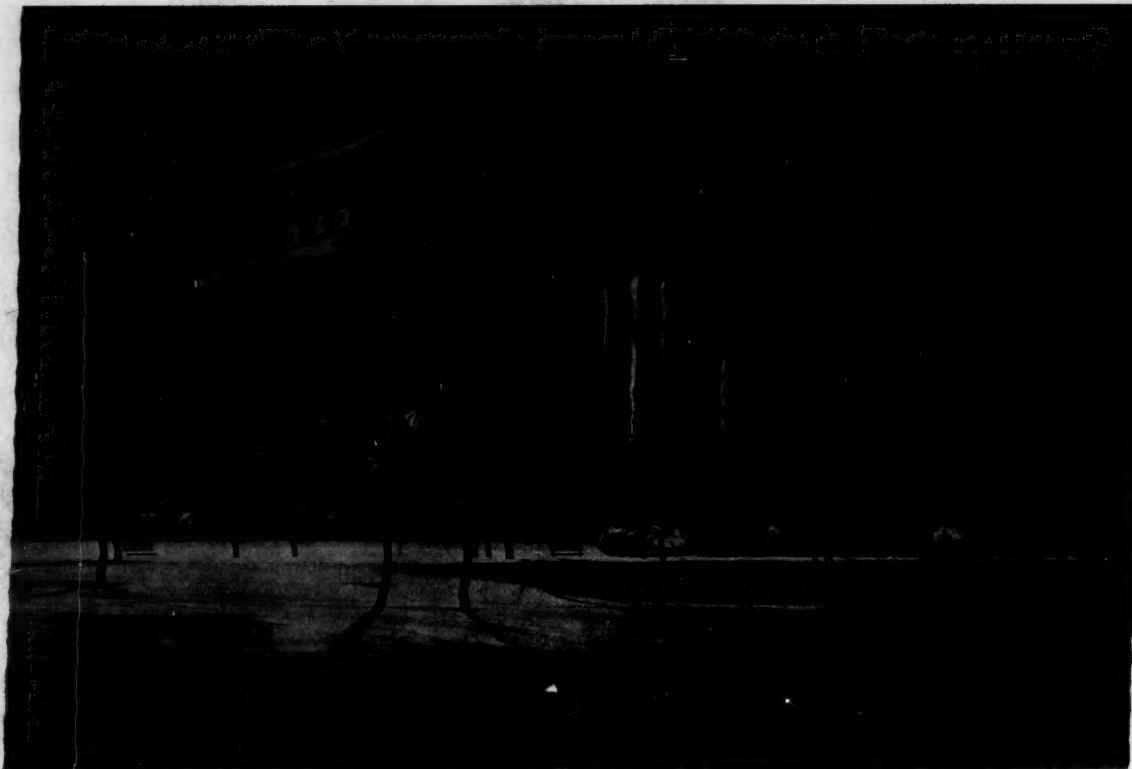


PHOTO BY HORYDCZAK

The Nation's Memorial to Lincoln on a Winter's Night

Lincoln Memorial

by Frederick Lee

A JEWEL SET IN A CROWN of architectural and natural beauty, the Lincoln Memorial calls forth exclamations of wonderment and appreciation each time it is visited. The marble statue of Lincoln looks out through massive columns across that marvelous mirror of nature, the Reflecting Pool, to the Washington Monument and the Capitol building beyond. The form of the beloved President has been beautifully idealized in sculpture by Daniel Chester French. He sits with his back to Arlington, the home of the honored dead, and his face set toward the activity of the nation. It is a beautiful symbol of the hope and confidence of a great people, a cherished national shrine.

The massive building was designed by Henry Bacon. The interior decorations were painted by Jules Guerin. The memorial, which was erected at a cost of \$3,000,000, was dedicated on May 30, 1922. The union of the nation is expressed in the colonnade bordering the porch which surrounds the building. Besides the two columns which stand in the entrance, there are thirty-six columns, one for each State in existence at the time of Lincoln's death. The names of

the forty-eight States now forming the Union are inscribed on the wall above the colonnade. The fluted columns are of great size, being seven feet four inches in diameter at the base and forty-four feet high.

Inside the building there are three rooms called the south, the central, and the north hall. The north and south halls are each separated from the central hall by a row of Ionic fluted columns fifty feet high. In the south hall is inscribed the Gettysburg Address. On the wall above this there are decorations representing Emancipation, Civilization, and Progress. The Second Inaugural Address is recorded upon the wall of the north hall, above which are to be seen decorations symbolizing Unity, Fraternity, and Charity.

Behind the marble statue of Lincoln are to be found the words, "In this temple, as in the hearts of the people for whom he saved the Union, the memory of Abraham Lincoln is enshrined forever." The Lincoln Memorial stands for all that America holds dear—Unity, Liberty, Truth, Charity, Justice, and Freedom. May these principles continue to be the guiding star of this mighty nation.

